

## CHAPTER 38

## TECHNICAL COLLEGE SYSTEM

38.001	Mission and purpose.	38.23	Student discrimination prohibited.
38.01	Definitions.	38.24	Fees and tuition.
38.02	Establishment.	38.26	Minority student participation and retention grants.
38.04	Technical college system board; powers and duties.	38.27	Incentive grants.
38.06	District boundaries.	38.272	Farm training program tuition grants.
38.08	Composition and organization of district board.	38.28	State aid.
38.10	Appointment of district board members.	38.29	Chauffeur training grants.
38.12	District board duties.	38.30	Special aid for veterans.
38.125	Public broadcasting stations.	38.32	Technical college instructor occupational competency program.
38.14	District board powers.	38.33	Faculty development grants.
38.145	Responsibilities of students.	38.36	Nutritional improvement for elderly.
38.15	Financing of capital expenditures.	38.38	Services for handicapped students.
38.16	District tax levy.	38.40	Technical preparation, school-to-work, and work-based learning programs.
38.18	Contracts and bidding.	38.41	Training program.
38.20	Adjustment of assets and liabilities.	38.50	Educational approval board.
38.22	Admission requirements.		

**Cross-reference:** See also [TCS](#), Wis. adm. code.

**38.001 Mission and purpose. (1)** The legislature finds it in the public interest to provide a system of technical colleges which enables eligible persons to acquire the occupational skills training necessary for full participation in the work force; which stresses job training and retraining; which recognizes the rapidly changing educational needs of residents to keep current with the demands of the work place and through its course offerings and programs facilitates educational options for residents; which fosters economic development; which provides education through associate degree programs and other programs below the baccalaureate level; which functions cooperatively with other educational institutions and other governmental bodies; and which provides services to all members of the public.

**(1m)** The board shall be responsible for the initiation, development, maintenance and supervision of programs with specific occupational orientations below the baccalaureate level, including associate degrees, training of apprentices and adult education below the professional level.

**(2)** The principal purposes of the technical college system are to:

(a) Provide occupational education and training and retraining programs, including the training of apprentices, that enable residents to obtain the knowledge and skills necessary for employment at a technical, paraprofessional, skilled or semiskilled occupation. Such programs include general education courses to facilitate student achievement in occupational skills training. The district boards should maintain courses at standards acceptable to national, regional and professional accrediting agencies and associations.

(b) Provide customized training and technical assistance to business and industry in order to foster economic development and the expansion of employment opportunities.

**(3)** The additional purposes of the technical college system are to:

(a) 1. Contract with secondary schools, including tribal schools, to provide educational opportunities for high school age students in order to enhance their potential for benefiting from postsecondary education and for obtaining employment.

2. Coordinate and cooperate with secondary schools, including tribal schools, to facilitate the transition of secondary school students into postsecondary technical college education through curriculum articulation and collaboration.

(b) Provide a collegiate transfer program.

(c) Provide community services and avocational or self-enrichment activities.

(d) Provide education in basic skills to enable students to effectively function at a literate level in society.

(e) Provide education and services which address barriers created by stereotyping and discriminating and assist minorities, women and the handicapped or disadvantaged to participate in the work force and the full range of technical college programs and activities.

**History:** 1971 c. 100, 125, 211; 1981 c. 269, 391; 1983 a. 379; 1991 a. 39; 1993 a. 399; 2009 a. 302.

Section 118.15 permits VTAE (technical college) instructors to teach a limited number of courses to public school students under certain circumstances without department of public instruction certification. Green Bay Education Association, v. DPI, 154 Wis. 2d 655, 453 N.W.2d 915 (Ct. App. 1990).

**38.01 Definitions.** In this chapter:

**(1)** “Associate degree program” means a 2-year, post-high school program in an area designated and approved by the board for which the course requirements are established by the board.

**(2)** “Board” means the technical college system board.

**(3)** “Collegiate transfer program” means a statewide, full-time program, designated and approved by the board, in which the credits earned may be transferable to a 4-year institution of higher education.

**(4)** “Community service program” means an avocational or self-enrichment course that does not lead to a paying occupation or present essential skills needed in nonpaying occupations and that is established by a district board and approved by the state director under procedures established by the board.

**(5)** “District” means a technical college district established under this chapter.

**(6)** “District board” means the district board in charge of the technical colleges of a district.

**(7)** “School board” means the school board in charge of the public schools of a school district.

**(8)** “School district” means a school district operating high school grades.

**(9)** “School year” means the time commencing with July 1 and ending with the next succeeding June 30.

**(9m)** “Tribal school” has the meaning given in s. 115.001 (15m).

**(10)** “Vocational-adult program” means a part-time vocationally oriented program established by a district board which is approved by the state director under procedures established by the board.

**(11)** “Vocational diploma program” means a one- or 2-year, full-time program in an area designated and approved by the board for which the course requirements are established by the board.

**History:** 1971 c. 154, 211; 1975 c. 39; 1979 c. 34; 1983 a. 189; 1993 a. 213, 399; 2009 a. 302.

**38.02 Establishment.** There is established under this chapter a system of technical colleges to foster and maintain instruction in courses approved by the board in part-time and full-time day or evening classes.

**History:** 1971 c. 154; 1989 a. 359; 1991 a. 39; 1993 a. 399.

**38.04 Technical college system board; powers and duties.** **(1) GENERAL.** The board shall determine the organization, plans, scope and development of technical colleges. For state aid, credit determination and other purposes, the board shall establish criteria for the establishment of district schools and shall classify and name the district schools.

**(1m) GOALS AND ACCOUNTABILITY MEASURES FOR ECONOMIC DEVELOPMENT PROGRAMS.** (a) In this subsection, “economic development program” means a program or activity having the primary purpose of encouraging the establishment and growth of business in this state, including the creation and retention of jobs, and that satisfies all of the following:

1. The program receives funding from the state or federal government that is allocated through an appropriation under ch. 20.

2. The program provides financial assistance, tax benefits, or direct services to specific industries, businesses, local governments, or organizations.

(b) The board, in consultation with the department of commerce, shall do all of the following for each economic development program administered by the board:

1. Establish clear and measurable goals for the program that are tied to statutory policy objectives.

2. Establish at least one quantifiable benchmark for each program goal described in subd. 1.

3. Require that each recipient of a grant or loan under the program submit a report to the board. Each contract with a recipient of a grant or loan under the program shall specify the frequency and format of the report to be submitted to the board and the performance measures to be included in the report.

4. Establish a method for evaluating the projected results of the program with actual outcomes as determined by evaluating the information described in subds. 1. and 2.

5. Annually and independently verify, from a sample of grants and loans, the accuracy of the information required to be reported under subd. 3.

6. Establish by rule a requirement that the recipient of a grant or loan under the program of at least \$100,000 submit to the board a verified statement signed by both an independent certified public accountant licensed or certified under ch. 442 and the director or principal officer of the recipient to attest to the accuracy of the verified statement, and make available for inspection the documents supporting the verified statement. The board shall include the requirement established by rule under this subdivision in the contract entered into by a grant or loan recipient.

7. Establish by rule policies and procedures permitting the board to do all of the following if a recipient of a grant or loan or tax benefits under the program submits false or misleading information to the board or fails to comply with the terms of a contract entered into with the board under the program and fails to provide to the satisfaction of the board an explanation for the noncompliance:

- a. Recoup payments made to the recipient.
- b. Withhold payments to be made to the recipient.
- c. Impose a forfeiture on the recipient.

**(2) DIRECTOR.** The board shall appoint a director, outside the classified service, to serve at its pleasure.

**(2m) EXECUTIVE ASSISTANT.** The director may appoint an executive assistant, outside the classified service, to serve at his or her pleasure.

**(3) STAFF.** The board shall appoint such staff as is necessary under the classified service. Two division administrator positions shall be filled outside the classified service.

**(4) TEACHER AND COURSE REQUIREMENTS.** (a) Except as provided in par. (ag), the qualifications of educational personnel and the courses of study for each program offered in district schools shall be approved by the board. The board may charge the districts for the full costs associated with certification of educational personnel. Such certification expenses shall not be included in the district aidable cost.

**Cross-reference:** See also ch. TCS 3, Wis. adm. code.

(ag) A program approved by the economic policy board under subch. V of ch. 560 is exempt from board approval under par. (a).

(am) The board shall not consider any course of study for approval under par. (a) that has not first been approved by the district board.

(b) The board may authorize district boards to grant associate degrees to those students who successfully complete associate degree programs.

(c) Collegiate transfer programs shall not comprise more than 25% of the approved credit hours offered in any technical college district.

(d) The board shall seek the advice of the environmental education board on the development of environmental education programs.

(e) No driver education course may be approved by the board unless it does all of the following:

1. Acquaints each student with the hazards posed by machinery and animals on highways and provides instruction in safely dealing with such hazards.

2. Provides at least 30 minutes of instruction relating to organ and tissue donation and organ and tissue donation procedures.

3. Includes information on motorcycle awareness, as approved by a recognized motorcycle safety and awareness organization, and pedestrian and bicycle awareness, as approved by a recognized pedestrian and bicycle safety and awareness organization.

4. Includes instruction relating to passing stopped emergency vehicles, tow trucks, and highway machinery equipment.

5. Acquaints each student with the hazards posed by railroad highway grade crossings and provides at least 30 minutes of instruction in safely dealing with these hazards.

6. Acquaints each student with the hazards posed by composing or sending electronic text messages or electronic mail messages while driving and with the provisions of s. 346.89 (3).

**(5) COOPERATE WITH FEDERAL GOVERNMENT.** The board shall cooperate with the federal government in carrying out any federal act pertaining to technical education.

**(6) GIFTS AND GRANTS.** The board may accept gifts, grants, bequests and devises to be used in the execution of its functions.

**(7) FUNDING SOURCES.** The board shall develop policies for the purpose of specifically identifying the general purpose revenue and nongeneral purpose revenue funding sources used for noninstructional student activities and for the purpose of governing the allocation of funds to those noninstructional student activities supported by both general purpose and nongeneral purpose revenue.

**(7m) FINANCIAL AIDS.** By April 10, 1998, and annually thereafter, the board shall develop and submit to the higher educational aids board for its review under s. 39.285 (1) a proposed formula for the awarding of grants under s. 39.435, except for grants awarded under s. 39.435 (2) or (5), for the upcoming academic year to students enrolled in the technical colleges.

**(8) MINORITY STUDENT PARTICIPATION AND RETENTION PLAN.** (a) In this subsection, “minority group member” has the meaning given in s. 560.036 (1) (f).

(b) Annually by January 1, the board shall develop a plan to increase minority group member participation and retention in the technical college system. The plan shall specify each district board’s goals and objectives for minority group member participation and retention. The plan shall outline activities and programs that enhance minority group member participation and retention and shall review the progress made by the board and by district boards in the previous school year.

**(9) TRAINING PROGRAMS FOR FIRE FIGHTERS.** In order to promote safety to life and property, the board may establish and supervise training programs in fire prevention and protection. The programs shall include training in responding to acts of terrorism, as defined in s. 256.15 (1) (ag), and shall be available to members of volunteer and paid fire departments maintained by public and private agencies, including industrial plants. No training program required for participation in structural fire fighting that is offered to members of volunteer and paid fire departments maintained by public agencies may require more than 60 hours of training.

**(10) ADDITIONAL FACILITIES.** (a) Except as provided under par. (b), the board shall review and approve any proposals by district boards for land acquisition, additional or new facilities, rentals and remodeling of existing facilities, prior to the letting of contracts to construct, remodel, rent or incur debt for such facilities or acquisition of land. The board shall encourage district boards to finance capital building proposals with long-term benefits through bonding or promissory note obligations.

(b) Proposals by district boards for minor rentals and minor remodeling projects are exempt from board review and approval under par. (a). The board shall promulgate rules defining “minor rental” and “minor remodeling” and establishing criteria and procedures for exempting such proposals under this paragraph.

(c) The board shall review and approve, disapprove or modify any proposal by a district board to lease facilities or property to others under s. 38.14 (2) (d).

(d) 1. In consultation with representatives of business and labor, the board shall develop a separate approval process for district board proposals to purchase or construct facilities to be used as applied technology centers under s. 38.15 (3) (c). The board may not approve a proposal unless the board determines that all of the following apply:

a. The applied technology center is likely to maintain or increase the number of jobs in the region served by the center that require a high level of skill and provide high wages.

b. The productivity of employees who would be served by the center is likely to increase.

c. One or more businesses in the region served by the center will pay for all of the direct operating costs of services provided at the center and at least 20% of the indirect operating costs of services provided at the center, pursuant to a contract under s. 38.14 (3) (a), and will fund, either in cash or in kind, at least 30% of the capital costs of the center.

d. The district board consulted with representatives of business and labor on the development of the center.

e. Either within the 12 months prior to submittal of the proposal or within the 12 months following submittal of the proposal, the district board has retired or will retire an amount of debt equal to or greater than the amount of debt that will be incurred for the purchase or construction of the applied technology center.

2. By December 1 of the year in which a center approved under subd. 1. begins operating, and annually thereafter by December 1, the district board shall report to the board the change, since the center began operating, in the wages, productivity and level of skill of the employees who have been directly served by the center.

**Cross-reference:** See also ch. TCS 5, Wis. adm. code.

**(10m) ECONOMIC DEVELOPMENT ASSISTANCE REPORTING.** Annually, no later than October 1, the board shall submit to the joint legislative audit committee and to the appropriate standing committees of the legislature under s. 13.172 (3) a comprehensive report assessing economic development programs, as defined in sub. (1m) (a), administered by the board. The report shall include all of the information required under s. 560.01 (2) (am). The board shall collaborate with the department of commerce to make readily accessible to the public on an Internet-based system the information required under this subsection.

**(11) DISTRICT REPORTING AND AUDIT REQUIREMENTS.** (a) *Uniform format and reporting systems.* 1. The board shall establish uniform reporting methods for fiscal, enrollment, program and other information which shall be provided by the district boards as the board deems necessary and shall require common use of the fiscal year for operations and data reporting. The board shall establish, by rule, uniform formats and reporting standards for district board contracts under s. 38.14 (3) and for budgets approved by district boards under s. 38.12 (5m). The board shall promulgate rules governing the financing of capital expenditures under s. 38.15 and the management of reserve funds.

2. In consultation with the state superintendent of public instruction, the board shall establish, by rule, a uniform format for district boards to use in reporting the number of pupils attending district schools under ss. 118.15 (1) (b), (cm) and (d) and 118.55 (7r) and in reporting pupil participation in technical preparation programs under s. 118.34, including the number of courses taken for advanced standing in the district’s associate degree program and for technical college credit.

(b) *Annual audit.* The board shall promulgate rules governing the annual district audit under s. 38.12 (5). The rules shall provide for a standard audit contract and shall specify the minimum disclosures to be made by the firm conducting the audit and the persons authorized to have access to and obtain the working papers of the firm conducting the audit. The board may conduct or contract for an audit of any district.

(bm) *Uniform financial fund accounting system.* The board shall prescribe a detailed uniform financial fund accounting system, applicable to all district boards, which provides for the recording of all financial transactions inherent in the management of the districts and the administration of the district aid programs. The system shall be in operation by July 1, 1987.

(c) *Withholding of state aid.* The board shall withhold or suspend payment of all or a portion of state aid to any district board which fails to comply with accounting, budget, audit, contracting and reporting standards established by the board under this subsection.

**Cross-reference:** See also chs. TCS 7, 8, and 9, Wis. adm. code.

**(12) PRISON INMATE EDUCATIONAL PROGRAM.** The board may establish vocational educational programs for inmates within the state correctional system and contract with the departments of corrections and health services for reimbursement of that portion of the district program costs which exceeds amounts received as state and federal aid.

**(13) DISPLACED HOMEMAKERS’ PROGRAM.** (a) 1. The board shall accept and process applications from district boards and local community organizations to provide services, which may include but are not limited to personal counseling and outreach, to or on behalf of displaced homemakers. The board shall make grants for these purposes from the appropriation under s. 20.292 (1) (b). Grants under this subsection shall be distributed on a statewide basis and shall supplement rather than replace funds received under any other law to provide services to displaced homemakers. To the extent possible while maintaining statewide distribution, except as provided in subd. 2., in awarding grants preference shall be given to district boards. If a particular district board does not apply for a grant under this subsection, the board may award a grant to a local community organization located in that district which submits an application. No grant may equal more than 90% of approved expenditures. Any cost to the board

of administering this subsection shall be paid from the appropriation under s. 20.292 (1) (a).

2. If the board receives an application from a local community organization offering a displaced homemakers' program in the 1981–83 biennium and from a district board, the board may not give preference to the district board's application.

3. If the board determines that a district board or local community organization awarded a grant under subd. 1. will not fully expend the grant before the end of a fiscal year, the board may reduce the amount of the grant awarded to the district board or local community organization and award the funds to another applicant.

(b) No person may, on the ground of sex, age, race, color, religion or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this subsection.

(c) In this subsection, "displaced homemaker" means an individual who:

1. Has worked in the home for a substantial number of years providing unpaid household services for family members;
2. Is not gainfully employed;
3. Has had, or would have, difficulty in securing employment; and
4. Has been dependent on the income of another family member but is no longer supported by such income, has been dependent on public assistance but is no longer eligible for such assistance, or is supported as the parent of minor children by public assistance or spousal support but whose children are within 2 years of reaching their majority.

**(14) GENERAL DISTRICT POLICIES.** (a) The board shall promulgate rules, applicable to all district boards, establishing general district policies and procedures on all of the following:

1. Employee and district board member travel and expenses. The policies and procedures established under this subdivision shall be similar to the provisions of ss. 16.53 (12) and 20.916, insofar as applicable.

2. Procurement.
3. Personnel, including the district director.
4. Contracts to provide services.

(b) The board may direct the district boards to establish written policies relating to any matter not enumerated under par. (a).

**Cross-reference:** See also chs. TCS 6 and 8, Wis. adm. code.

**(15) REVIEW OF DISTRICT BOARD APPOINTMENTS.** The board shall, by rule, establish criteria and procedures for the review of district board member appointments by the board.

**Cross-reference:** See also ch. TCS 2, Wis. adm. code.

**(16) ACCOMMODATION OF RELIGIOUS BELIEFS.** The board shall promulgate rules, applicable to all district boards, providing for the reasonable accommodation of a student's sincerely held religious beliefs with regard to all examinations and other academic requirements.

**Cross-reference:** See also ch. TCS 14, Wis. adm. code.

**(17) INFORMATION FOR TAX BILLS.** By October 1, the board shall provide to the department of revenue the information about aids distributed under ss. 38.28 and 38.32 to each technical college district that will enable the department of revenue to furnish to taxation districts the information required under s. 73.03 (31).

**(18) STATEWIDE GUIDE.** Annually, the board shall produce, and distribute to students, parents, high school personnel and others, a guide containing information on all of the technical colleges and their programs.

**(19) COOPERATIVE RESEARCH ON EDUCATION PROGRAMS.** The board shall enter into a written agreement with the department of public instruction, the board of regents of the University of Wisconsin System, and the Wisconsin Association of Independent Colleges and Universities to cooperatively conduct research on

preschool through postsecondary education programs under s. 115.297, except as provided in s. 115.297 (5) (b).

**(20) BASIC SKILLS INSTRUCTION IN JAILS AND PRISONS.** From the appropriation under s. 20.292 (1) (ce), the board shall award grants to district boards for providing basic skills instruction in jails and prisons.

**(21) PUPILS ATTENDING TECHNICAL COLLEGES; BOARD REPORT.** Annually by the 3rd Monday in February the board shall submit a report to the department of administration, department of children and families, department of public instruction, and department of workforce development, and to the legislature under s. 13.172 (2). The report shall specify all of the following by school district:

(a) The number of pupils who attended district schools under ss. 118.15 (1) (b), (cm) and (d) and 118.55 (7r) in the previous school year.

(b) The type and number of credits earned by the pupils.

(c) The number of persons who applied for admission to a technical college in the previous school year, who previously earned technical college credit under s. 118.55 (7r) and who applied for admission within one year of graduating from high school.

(d) The courses given in high schools for which a pupil may receive technical college credit and the number of pupils enrolled in the courses for technical college credit in the previous school year.

(e) Any other information considered relevant by the board.

**(22) TECHNICAL COLLEGE STUDENT ORGANIZATIONS.** The board shall assist district boards to operate technical college student organizations for students pursuing related instruction.

**(23) WORKPLACE LITERACY RESOURCE CENTER.** The board shall operate a workplace literacy resource center. The workplace literacy resource center shall do all of the following:

(a) Develop, purchase, review and evaluate materials on workplace literacy, including needs assessment instruments, and disseminate those materials to persons interested in supporting workplace literacy.

(b) Refer any person that is interested in supporting workplace literacy, such as an employer, an employee, a labor organization or a community organization, to literacy service providers located in the person's community and other workplace literacy resources.

**(24) TRAINING OF HEALTH PROFESSIONALS.** The board shall promote public awareness of, access to and training of health professionals for rural and underserved urban areas.

**(26) TECHNICAL PREPARATION PROGRAMS.** In consultation with the state superintendent of public instruction, the board shall approve courses for technical preparation programs under s. 118.34. By July 1, 1994, and annually thereafter by July 1, the board shall publish a list of the approved courses that indicates the schools in which each course is taught and the credit equivalency available in each district for each course.

**(27) SCHOOL SAFETY.** The board shall work with schools of education and other departments of the University of Wisconsin System under s. 36.11 (36m), school districts, private schools, tribal schools, and the department of public instruction to present to school districts, private schools, and tribal schools the results of research on models for and approaches to improving school safety and reducing discipline problems in schools and at school activities.

**(28) HEALTH CARE EDUCATION PROGRAMS.** From the appropriation under s. 20.292 (1) (ch), the board shall award grants to district boards to expand health care education programs.

**(29) MASTER LOGGER APPRENTICESHIP GRANTS.** The board shall use the moneys appropriated under s. 20.292 (1) (km) to award grants to businesses that provide technical college students with forest product internships for the purpose of placing eligible

apprentices with loggers who are certified by the Great Lakes Timber Professionals Association as master loggers.

**(31) TRUCK DRIVER TRAINING.** From the appropriation under s. 20.292 (1) (hm), subject to 2001 Wisconsin Act 16, section 9148 (1f), the board shall award grants to the district boards governing Chippewa Valley Technical College, Fox Valley Technical College, and Waukesha County Technical College for truck driver training.

**History:** 1971 c. 154, 211; 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1981 c. 20; 1981 c. 93 ss. 19m, 30m, 30o; 1981 c. 269, 314; 1983 a. 27, 379; 1985 a. 12, 29; 1985 a. 332 s. 251 (1); 1987 a. 27; 1989 a. 31, 107, 125, 169, 299, 335, 336; 1991 a. 39, 227, 250; 1993 a. 16, 223, 377, 399, 455, 491; 1995 a. 27 ss. 1800n to 1803, 9126 (19) and 9145 (1); 1995 a. 342; 1997 a. 27; 1999 a. 9, 124; 2001 a. 16, 109; 2003 a. 33, 62; 2005 a. 25, 466; 2007 a. 20 ss. 737, 9121 (6) (a); 2007 a. 68, 125, 130; 2009 a. 28, 59, 64, 181, 220, 302.

Vocational, technical and adult education (technical college) districts are subject to city equal employment opportunity ordinances, but only within the geographic boundaries of the city. 70 Atty. Gen. 226.

A VTAE (technical college) district is a “school district” under s. 19.21 (7) [now s. 19.21 (6)], governing destruction of obsolete school records. 71 Atty. Gen. 9.

The state board may by rule require that the record concerning appointment of district board members show compliance with statutory procedural requirements, and the state board may disapprove appointments because of procedural irregularities except those involving the Open Meetings Law. 73 Atty. Gen. 108.

**38.06 District boundaries. (1)** Each district shall include one or more counties, municipalities or school districts in any contiguous combination.

**(2)** In this section, “reorganization” means any alteration, dissolution, creation or merger of any district.

**(3)** (a) Upon its own motion or upon approval of a petition filed under sub. (4), the board may issue a district reorganization order. Prior to issuing an order under this subsection, the board shall conduct such studies, investigations and hearings as it deems necessary.

(b) Any reorganization order issued by the board shall take effect on the July 1 next succeeding the date of the order.

(c) Three months prior to the effective date of any reorganization order, the board shall report to the joint committee on finance the fiscal and educational impact of the reorganization order upon the affected districts.

**(4)** (a) The governing body of a county, municipality or school district may file a petition with the board requesting that its territory be detached from the district in which it lies and attached to a district to which such territory is contiguous, or if portions of its territory lie in more than one district, by requesting that all such portions be placed within one of such districts.

(b) Immediately upon receipt of the petition, the board shall notify each district board affected of the receipt of the petition and the boundary reorganization requested therein. Such district boards shall within 45 days notify the board of their recommendations on the petition.

(c) Within 90 days of the receipt of the petition, the board shall notify the governing body filing the petition and the district boards affected of its approval or disapproval of the proposed detachment and attachment of territory.

**(5)** If school district boundaries are changed in accordance with chs. 115 to 121, the board may act to change district boundaries to coincide with school district boundaries without holding a public hearing.

**History:** 1971 c. 154; 1973 c. 333; 1989 a. 56.

**Cross-reference:** See also ch. TCS 1, Wis. adm. code.

### 38.08 Composition and organization of district board.

**(1)** (a) 1. A district board shall administer the district and shall be composed of 9 members who are residents of the district, including 2 employers, 2 employees, 3 additional members, a school district administrator, as defined under s. 115.001 (8), and one elected official who holds a state or local office, as defined in s. 5.02. The board shall by rule define “employer” and “employee” for the purpose of this subdivision.

2. The employer and employee members of the district board shall be representative of the various businesses and industries in

the district. The school district administrator shall be employed by the school board of a school district located in the district. Of the 3 additional members, no more than 2 may be employers, no more than 2 may be employees, no more than 3 may be school district administrators and no more than 3 may be elected officials. No 2 members of the district board may be officials of the same governmental unit nor may any district board member be a member of the school board that employs the school district administrator member.

(b) District board members shall take office on July 1 and shall serve staggered 3-year terms.

**(1g)** The appointment committee for a district board that governs a district encompassing a 1st class city shall include 4 additional members designated by the board of school directors in charge of the public schools of the 1st class city. The additional members shall be appointed so as to reflect, to the extent possible, the distribution of women and minorities within the 1st class city.

**(2)** Members of a district board shall serve until their successors are appointed and qualified. A vacancy shall be filled for any unexpired term of more than 90 days in the manner provided for the making of original appointments in s. 38.10, except that if a vacancy occurs within 120 days preceding a spring election, the vacancy need not be filled until 60 days after the spring election, in the manner provided in s. 38.10.

**(2m)** Any member of a district board serving as an elected official under sub. (1) (a) 1. shall cease to be a member upon vacating his or her office as an elected official.

**(3)** The district board shall hold its annual organizational meeting on the 2nd Monday in July at which it shall elect from among its members a chairperson, vice chairperson, secretary and treasurer. If a vacancy occurs in any of the district board officer positions after the annual organizational meeting, the district board may elect an officer to fill the vacancy at any subsequent district board meeting. No person may serve as chairperson for more than 2 successive annual terms.

**(4)** District board members shall receive their actual and necessary expenses incurred in the performance of their duties.

**(5)** Where a function is assigned to the clerk of a governmental unit and a district is one of such governmental units, the function shall be performed by the district board secretary.

**History:** 1971 c. 154; 1977 c. 29; 1981 c. 269; 1983 a. 189 s. 329 (17); 1985 a. 29; 1987 a. 94; 1989 a. 31, 359; 1999 a. 182.

The office of commissioner on a policy board of a consortium of counties under the federal comprehensive employment and training act and the office of president of a district VTAE (technical college) board, which would be an applicant and competitor for funds allocated, are incompatible. 63 Atty. Gen. 453.

The state board may by rule require that the record concerning appointment of district board members show compliance with statutory procedural requirements, and the state board may disapprove appointments because of procedural irregularities except those involving the Open Meetings Law. 73 Atty. Gen. 108.

The criteria for appointment to district VTAE (technical college) boards, including changes in status of “employer,” “employee,” and “elected official” representatives and the incompatibility of board membership and the offices of sheriff and circuit judge, is discussed. 77 Atty. Gen. 256.

**38.10 Appointment of district board members. (1)** District board members shall be appointed by an appointment committee constituted as follows:

(a) If the petition for creation of a district was filed by the governing bodies of school districts or municipalities, the school board presidents of school districts having territory within the district shall constitute the appointment committee.

(b) If the petition for creation of a district was filed by the governing bodies of counties or any combination of school districts, counties and municipalities, the county board chairpersons of counties having territory within the district shall constitute the appointment committee.

(c) If the board created a district, the heads of the governing bodies designated by the board shall constitute the appointment committee. The designation shall be made in accordance with par. (a) or (b) depending upon which governmental units comprise the district.

(1m) An appointment committee member may designate another officer of his or her governmental unit to represent the member at appointment committee meetings.

(2) (a) 1. On or before the first Monday in March, or within 30 days of the date on which a vacancy on the district board occurs, the district board secretary shall notify each member of the appointment committee, each governing body having a member on the appointment committee and the board of the vacancy or of terms of office which will expire during the year.

2. The chairperson of the appointment committee shall fix a date, to be no later than 60 days after receipt of notification of the vacancy or term expiration, or 60 days after a spring election if a vacancy occurs within 120 days preceding a spring election, and a time and place for a public hearing and meeting of the appointment committee to approve a representation plan and to appoint district board members, and shall send written notice of the public hearing and meeting to each district board member, each governing body having a member on the appointment committee, each member of the appointment committee and the board.

(b) The appointment committee member from the appropriate governmental unit specified under sub. (1) (a), (b) or (c) having the largest population in the district shall act as chairperson of the appointment committee.

(c) At the meeting and prior to the appointment of district board members, the appointment committee shall formulate a plan of representation for the membership of the district board. The plan shall give equal consideration to the general population distribution within the district and the distribution of women and minorities within the district. The plan of representation for the membership of the district board that governs a district encompassing a 1st class city shall also give equal consideration to the distribution of minorities within the 1st class city. The plan shall form the basis upon which membership of the district board is determined. The board shall review district board appointments to determine whether they comply with the provisions of the plan and the requirements of s. 38.08 (1) (a).

(d) 1. Upon receiving notice of the vacancy or term expiration under par. (a) 1. and at least 14 days before publication of the notice required under subd. 3., the appointment committee shall publish a notice announcing the intent to appoint district board members, including the criteria for selection, and soliciting the submission of names and qualifications of candidates.

2. In order to be eligible for consideration for appointment to the district board, a candidate shall submit his or her name and qualifications to the appointment committee within 14 days of the date of publication of the notice under subd. 1.

3. Notwithstanding s. 19.84 (3), the appointment committee shall publish a notice of any meeting or public hearing at which the appointment committee will consider the filling of any vacancy on the district board or any other matter pertaining to the appointment of district board members at least 14 days before the meeting or public hearing. The subject matter of the meeting or public hearing as specified in the notice shall contain the names of individuals being considered for appointment. Prior to the meeting at which an appointment is made, the appointment committee shall hold a public hearing at which the names and qualifications of individuals being considered for appointment to the district board shall be discussed. No person may be appointed to a district board by an appointment committee unless his or her name appeared in at least one notice of a public hearing or meeting of the committee and he or she provided references to the committee, was interviewed by the committee and attended the public hearing at which his or her appointment to the district board was discussed.

4. All notices under this paragraph are class 1 notices under ch. 985, except that they shall be 8–point type or larger.

(e) Within 5 days of the appointment of district board members, the chairperson of the appointment committee shall send written notice of the appointments and lengths of terms to the

board, to the members appointed to the district board and to the district board secretary.

(f) Selection of district board members and approval of a representation plan by the appointment committee shall be by majority vote of a quorum under par. (g). If the appointment committee cannot reach agreement on the representation plan and district board membership within 30 days after their first meeting, the board shall formulate the plan of representation and appoint the district board members in accordance with the plan.

(fm) If the board determines under par. (c) that district board appointments do not comply with the plan of representation under par. (c) or do not comply with s. 38.08 (1) (a), the board shall notify the appointment committee that the district board appointments are in noncompliance. Within 45 days after receipt of the board's determination that the district board appointments are in noncompliance, the appointment committee shall make district board appointments that comply with the provisions of the plan of representation under par. (c) and with s. 38.08 (1) (a). The board shall review any appointments made under this paragraph. If the board determines that the appointments made under this paragraph do not comply with a plan of representation under par. (c) or do not comply with s. 38.08 (1) (a), the board shall formulate a plan of representation that conforms with par. (c) and the board shall appoint the district board members in accordance with the plan of representation and with s. 38.08 (1) (a).

(g) County board chairpersons from counties having a combined population exceeding 50% of the population of the district constitute a quorum to do business for appointment committees composed of county board chairpersons under sub. (1) (b). School board presidents from school districts having a combined population exceeding 50% of the population of the district constitute a quorum to do business for appointment committees composed of school board presidents under sub. (1) (a). In no case may fewer than 2 people constitute a quorum.

**History:** 1971 c. 154; 1977 c. 29; 1981 c. 269; 1983 a. 192; 1987 a. 94; 1989 a. 31.

**Cross-reference:** See also ch. TCS 2, Wis. adm. code.

The county board chair acts for the county on special groups that appoint members of district boards of vocational, technical and adult education (technical colleges), even if there is a county administrator or executive. 60 Atty. Gen. 257.

**38.12 District board duties. (1) CONTROL OF DISTRICT SCHOOLS.** Except as otherwise provided by statute, the district board shall have exclusive control of the district schools established by it and of property acquired for the use of such schools.

**(2) DISTRICT FUNDS AND TREASURER.** The district board shall deposit all moneys received by it with the district board treasurer who shall be accountable for such funds. All expenditures exceeding \$2,500 shall be approved by the district board. Disbursement of such funds shall be made in accordance with s. 66.0607 (6).

**(3) DISTRICT DIRECTOR AND OTHER EMPLOYEES.** (a) The district board shall employ and fix the compensation of:

1. A district director who shall have general supervision and management of the development and work of the district schools.

2. Such supervisors, coordinators, teachers and technical advisers and experts as are necessary.

3. Such clerical assistants, custodians and other employees as are necessary.

(b) Employees under par. (a) 1. and 2. shall meet the requirements established by the board and, where applicable, the qualifications determined under s. 38.04 (4) (a).

(d) Employment of the district director under par. (a) 1. shall be by written contract which shall be filed with the district board secretary. The contract shall set forth all of the terms and conditions of employment.

**(4) PUBLICATION OF PROCEEDINGS; OPEN RECORDS.** The proceedings of the district board meetings shall be published within 45 days after the meeting as a class 1 notice, under ch. 985, in a newspaper published in the district. If no newspaper is published

in the district, the proceedings may be publicized as the district board directs. The publication of the proceedings shall include a statement of receipts and expenditures in the aggregate. The district board shall make a detailed record of all receipts and expenditures available to the public for inspection at each district board meeting and upon request.

**(5) ANNUAL AUDIT.** The district board shall annually authorize an audit of the district in accordance with rules promulgated by the board under s. 38.04 (11) (b). The district board shall submit the audit report to the board no later than 6 months following the end of each fiscal year.

**(5m) ANNUAL BUDGET.** The district board shall prepare its annual budget in compliance with rules promulgated by the board under s. 38.04 (11) (a). The district board shall submit an approved copy of its budget to the board by July 1 of each year and shall report any subsequent budget modification to the board within 30 days of approval of the modification by the district board.

**(6) TRANSPORTATION PLANNING.** The district board shall work with the regional planning commissions and the local authorities of the community in which the district school is located to evaluate the transportation needs of the district school population. The district board shall develop a transportation plan for the district school to effect energy resource conservation and efficient use of transportation resources. The plan shall include pedestrian walkways, bikeways, bike routes, bicycle storage racks, car and van pools, and to the extent feasible, improved mass transit services. The transportation plans shall detail parking management strategies and parking fee policies which provide incentives for the use of mass transit and high occupancy vehicles.

**(7) DISTRICT POLICIES.** The district boards shall establish specific written policies on district matters, including all of the matters enumerated under s. 38.04 (14), which are consistent with the rules promulgated under s. 38.04 (14). The policies may not conflict with any collective bargaining agreement and are subject to review and approval by the board.

**Cross-reference:** See also ch. TCS 6, Wis. adm. code.

**(8) COOPERATION WITH OTHER STATE AGENCIES.** (a) The district boards shall actively coordinate, with the department of public instruction and the school boards, the responsibility for providing vocational training to pupils attending high school and for providing education to persons who have dropped out of high school.

(b) The district boards shall actively coordinate, with the institutions within the University of Wisconsin System, the sharing of programs and facilities, including the collegiate transfer program, adult education and evening courses and part-time student and associate degree programs, in order to reduce the duplication of such programs and facilities.

(c) Annually by July 1, the district board shall report to the school boards of every school district located in whole or in part within the boundaries of the district on the steps the district board has taken in the previous year to satisfy its responsibility under par. (a).

**(9) FIRE FIGHTER TRAINING PROGRAMS.** The district board shall make available to members of volunteer and paid fire departments maintained by cities, villages and towns located in the district a fire fighter training program approved by the board and funded under s. 20.292 (1) (gr). No district board may charge a fee for training provided under this subsection.

**(10) CONTROLLED SUBSTANCES AND CONTROLLED SUBSTANCE ANALOGS; DISCIPLINE.** Each district board shall adopt rules providing nonacademic misconduct disciplinary sanctions for any student who engages in an activity, on district premises or at a district-sponsored event, that constitutes a violation of ch. 961. In determining the appropriate sanction, the district board or its designee shall consider those penalties, including suspension and expulsion, that will contribute most effectively to maintaining a school environment free from controlled substances, as defined in

s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01 (4m).

**(11) ORIENTATION PROGRAM; INFORMATION ON SEXUAL ASSAULT AND SEXUAL HARASSMENT.** The district board shall:

(a) Incorporate in its orientation program for newly entering students oral and written information on sexual assault and sexual harassment, as defined in s. 111.32 (13), including information on sexual assault by acquaintances of the victims and on all of the following:

1. The legal definitions of, and penalties for, sexual assault under ss. 940.225, 948.02 and 948.025, sexual exploitation by a therapist under s. 940.22 and harassment under s. 947.013.

2. Generally available national and state statistics on sexual assaults and on sexual assaults by acquaintances of the victims.

3. The rights of victims under ch. 950 and the services available at the district school and in the community to assist a student who is the victim of sexual assault or sexual harassment.

4. Protective behaviors, including methods of recognizing and avoiding sexual assault and sexual harassment and locations in the community where courses on protective behaviors are provided.

(b) Annually supply all students enrolled in the district printed material that includes all of the information under par. (a).

(c) Annually, submit a report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3). The report shall indicate the methods the district board used to comply with pars. (a) and (b).

**(13) ARMED FORCES.** If a student who is a member of a national guard or a member of a reserve unit of the U.S. armed forces withdraws from school after September 11, 2001, because he or she is called into state active duty or into active service with the U.S. armed forces for at least 30 days, the district board shall reenroll the student beginning in the semester in which he or she is discharged, demobilized, or deactivated from active duty or the next succeeding semester, whichever the student prefers, shall give the student the same priority in registering for courses that the student would have had if he or she had registered for courses at the beginning of the registration period, and, at the student's request, do one of the following for all courses from which the student had to withdraw:

**NOTE:** Sub. (13) (intro.) is affected by 2005 Wis. Acts 324 and 470. The 2 treatments are mutually inconsistent. Sub. (13) (intro.) is shown as affected by the last enacted act, 2005 Wis. Act 470. As affected by 2005 Wis. Act 324, it reads:

**(13) ARMED FORCES.** If a student who is a member of a national guard or a member of a reserve unit of the U.S. armed forces withdraws from school after September 11, 2001, because he or she is called into state active duty or into active service with the U.S. armed forces for at least 30 days, the district board shall reenroll the student beginning in the semester following his or her discharge from active duty or the next succeeding semester, whichever the student prefers, and, at the student's request, do one of the following for all courses from which the student had to withdraw:

(a) Reimburse the student all tuition and fees paid for all the courses.

(b) Grant the student an incomplete in all the courses and permit the student to complete the courses, within 6 months after leaving state service or active service, without paying additional tuition or fees.

**History:** 1971 c. 154; 1975 c. 198 s. 65; 1977 c. 29; 1979 c. 221; 1981 c. 20, 269; 1981 c. 391 s. 210; 1983 a. 27, 192; 1983 a. 379 ss. 2, 5, 6, 7; 1983 a. 391; 1985 a. 332 s. 251 (1), (3); 1987 a. 399; 1989 a. 56, 121, 177, 359; 1993 a. 227; 1995 a. 27 s. 9145 (1); 1995 a. 448; 1997 a. 27, 237; 1999 a. 150 s. 672; 2001 a. 22; 2003 a. 69; 2005 a. 324, 470.

**Cross-reference:** See also ch. TCS 7, Wis. adm. code.

**38.125 Public broadcasting stations.** If the district board governing the Milwaukee area technical college determines to relinquish its public broadcasting licenses, it shall offer to assign the licenses to the educational communications board, subject to approval of the federal communications commission.

**History:** 1985 a. 29; 1987 a. 399.

**38.14 District board powers. (1) LEGAL PROCEEDINGS.** The district board may sue and be sued in the name of the district and may prosecute or defend all suits brought by or against the district.

**(2) BUILDINGS AND EQUIPMENT.** (a) For the use of the district schools, the district board may:

1. Purchase or lease materials, supplies and equipment.
2. Purchase or lease suitable land and buildings and rent to others any portion of such land and buildings not needed for school purposes.
3. Construct, enlarge and improve buildings. Existing school buildings and equipment shall be used as far as practicable.

(b) If there is a county teachers college in the district which is no longer in operation, the district board shall utilize the existing buildings and equipment of the college to the extent possible.

(bm) With the approval of the director under s. 38.04 (2), the district board may sell any property which it finds to be no longer needed by the district.

(c) All conveyances, leases and contracts under this subsection shall be in the name of the district.

(d) With the approval of the board under s. 38.04 (10) (c), the district board may:

1. Lease facilities to others for school purposes. The district board may not enter into a lease under this subdivision after June 30, 1999.
2. Lease land to others for the construction of a building for school purposes if any future acquisition of the building by the district board will not expose the district board to an expenditure exceeding \$500,000, excluding moneys received from gifts, grants or federal funds. The district board may not enter into a lease under this subdivision after June 30, 1991.

**(3) CONTRACTS FOR SERVICES.** (a) The district board may enter into contracts to provide educational services to public and private educational institutions, tribal schools, federal and state agencies, local governmental bodies, industries, and businesses.

(am) If a district board contracts with a school board to provide youth apprenticeship instruction to pupils enrolled in the school district, the district board may not charge the school board an amount that is greater than the technical college district's direct instructional costs associated with providing the instruction.

(b) The district board may enter into contracts with local community-based organizations for basic skills instruction.

(bm) The district board may enter into contracts to provide fiscal and management services to public and private educational institutions, tribal schools, federal and state agencies, and local governmental units.

(c) A district board may contract with a foreign government or any business which is not operating in this state, if a district board demonstrates that the district will receive a direct and measurable benefit from the contract and that the contract will not result in a reduction in the quality of education at district schools and if all of the following conditions are met:

1. The contract meets all of the requirements for a district board contract under this subsection.
2. The contract provides for full cost recovery so that no direct or indirect costs under the contract will be funded by the district.
3. The district board reviews all cost allocation and record-keeping systems for all services provided under the contract, which shall be subject to audit by the district board, and provides guidelines which conform with the requirements of this paragraph.
4. The district board agrees to conduct an audit, on at least an annual basis, to determine that no state aids or district tax funds are spent in the execution of the contract.

(d) No district employee may receive compensation from a contract under par. (c) in excess of the compensation that he or she receives as compensation as a district employee, and any compensation that a district employee receives from a contract under

par. (c) shall be paid in proportion to the percentage of an employee's workload that represents the amount of time that an employee is assigned to work under a contract.

(e) The district board shall establish and file with the board policies governing contracting under this subsection. By December 1, 1990, and annually by December 1 thereafter, the district board shall submit to the board, in a form determined by the board, a report identifying all contracts under which the district board provided services under this subsection in the preceding fiscal year, and any other information requested by the board.

**Cross-reference:** See also ch. TCS 8, Wis. adm. code.

**(4) GIFTS AND GRANTS.** The district board may accept gifts, grants and bequests to be used in the execution of its functions and may accept grants to provide fiscal and management services for the office of justice assistance in the department of administration or its subsidiaries or, if applicable, its successor agency.

**(5) ADVISORY COMMITTEES.** The district board may establish advisory committees representing every occupation in the district. Each advisory committee shall consist of equal numbers of employers and employees selected by the district board from recommendations submitted by representative organizations and associations of each occupation. The district board and the district director may request the advice and assistance of these advisory committees in selecting, purchasing and installing equipment, in preparing course materials, in developing instructional methods and vocational guidance programs and for such other purposes as the district board desires.

**(6) TRANSPORTATION.** The district board may provide transportation for students within the district, but no state aid may be paid for this service.

**(7) SALE OF ARTICLES.** The district board may sell at market value articles manufactured in district schools. The proceeds from such sales shall be paid to the district treasurer.

**(9) ACTIVITY, INCIDENTAL AND VOCATIONAL-ADULT SEMINAR AND WORKSHOP FEES.** The district board may establish student activity and incidental fees to fund, in whole or in part, the cost of services and activities offered as support services for regular instruction. With the approval of the state director, the district board may establish fees for vocational-adult seminars and workshops, not to exceed the full cost of the seminar or workshop less the fee charged under s. 38.24 (1m).

**(10) BONDS FOR OFFICERS AND EMPLOYEES.** The district board may require an officer or employee of the district board to give security for the faithful performance of his or her duties in such form and amount as the district board determines, and may require at any time additional bonds and sureties of any officer or employee.

**(11) DISPLACED HOMEMAKERS' PROGRAM.** The district board may apply for and spend grant funds from the board for displaced homemakers' programs. The district board may spend those grant funds for contracts with local community organizations.

**(12) INITIATIVES TO PROVIDE COORDINATED SERVICES.** If the county board of supervisors establishes an initiative to provide coordinated services under s. 59.53 (7), the district board may participate in the initiative and may enter into written interagency agreements or contracts under the initiative.

**(13) PARKING REGULATIONS AND FEES.** The district board may adopt resolutions regulating the parking of motor vehicles on property under its jurisdiction. The resolutions may establish a fee for the parking of motor vehicles by students, faculty, staff and visitors and fines for the violation of any parking regulation. Nothing in this subsection requires that all users of the parking facilities be charged a parking fee.

**(14) STUDENT IDENTIFICATION NUMBERS.** The district board may assign to each student enrolled in the district a unique identification number. The district board shall not assign to any student an identification number that is identical to or incorporates the student's social security number. This subsection does not prohibit a district board from requiring a student to disclose his or her

social security number, nor from using a student's social security number if such use is required by a federal or state agency or private organization in order for the district board or the student to participate in a particular program.

**History:** 1971 c. 154, 215; 1977 c. 29; 1979 c. 221; 1981 c. 20, 93, 269; 1985 a. 29; 1987 a. 27, 403; 1989 a. 31; 1991 a. 39, 67; 1995 a. 201; 1997 a. 27, 85, 128; 2009 a. 302, 334.

The Milwaukee technical college may acquire and operate a retail service station as a part of a vocational training program. 58 Atty. Gen. 23.

A vocational, technical and adult education (technical college) district has authority to purchase buildings for administration purposes or student dormitory housing, and in doing so would not violate the constitutional ban on works of internal improvement. 60 Atty. Gen. 231.

VTAE (technical college) districts and the state board of vocational, technical and adult education do not have the power of eminent domain and, therefore, are not subject to ss. 32.19 to 32.27, the relocation act. 63 Atty. Gen. 367.

A VTAE (technical college) board may subsidize public bus lines to provide transportation under sub. (6). 65 Atty. Gen. 305.

**38.145 Responsibilities of students.** The students of each district, subject to the responsibilities and powers of the board, the state director, the district board, the district director and the faculty, shall be active participants in the immediate governance of and policy development for the district and may participate in all matters affecting student interests to the extent not in conflict with the terms of any collective bargaining agreement. As such, students have primary responsibility for the formulation and review of policies concerning student life and services. Students in consultation with the district director and subject to the final confirmation of the district board have the responsibility for the disposition of student activity and incidental fees under s. 38.14 (9). The students of each district may organize themselves in a manner that they determine and select their representatives to participate in district governance. This section does not prohibit the board, the state director, the district board, the district director or the faculty from selecting students to participate in district governance but any students selected by those bodies or persons shall not be considered to be representatives of the students for the purposes of the students' right to select their representatives to participate in district governance.

**History:** 1993 a. 101.

**38.15 Financing of capital expenditures. (1)** Subject to sub. (3), if the district board intends to make a capital expenditure in excess of \$1,500,000, excluding moneys received from gifts, grants or federal funds, for the acquisition of sites, purchase or construction of buildings, the lease/purchase of buildings if costs exceed \$1,500,000 for the lifetime of the lease, building additions or enlargements or the purchase of fixed equipment relating to any such activity, it shall adopt a resolution stating its intention to do so and identifying the anticipated source of revenue for each project and shall submit the resolution to the electors of the district for approval. The referendum shall be noticed, called and conducted as provided in s. 67.05 (3) insofar as applicable. For the purposes of this section, all projects located on a single campus site within one district which are bid concurrently or which are approved by the board under s. 38.04 (10) within a 2-year period shall be considered as one capital expenditure project.

**(2)** No more than \$1,000,000 in reserve funds, consisting of property tax revenues and investment earnings on those revenues, may be utilized by the district board to finance capital expenditures in excess of \$1,500,000 for the purposes under sub. (1).

**(3)** This section does not apply to any of the following:

(a) Building program actions approved by the board before February 1, 1980.

(b) Building remodeling or improvement projects.

(c) A capital expenditure to purchase or construct a facility to be used as an applied technology center if all of the following apply:

1. The district board adopts a resolution stating its intention to make a capital expenditure under this paragraph.

2. The board approves the proposal under s. 38.04 (10) (d) 1.

3. The capital expenditure is made before July 1, 2006.

4. The total amount of capital expenditures made by the district board under this paragraph does not exceed \$5,000,000.

(d) The acquisition of a building as a result of a lease under s. 38.14 (2) (d) 2. if the district makes no cash expenditure to acquire the building.

**(6)** For a building acquired as a result of a lease under s. 38.14 (2) (d) 2., the purchase price is a capital expenditure under sub. (1) in the fiscal year commencing on the 2nd July 1 following the acquisition of the building.

**History:** 1979 c. 221; 1983 a. 380; 1985 a. 323; 1987 a. 27, 391; 1989 a. 31; 1999 a. 9; 2001 a. 16; 2003 a. 62; 2009 a. 28.

**Cross-reference:** See also s. TCS 7.07, Wis. adm. code.

This section requires approval by referendum of a general building plan and the source of funding, not a specific project proposal that is definite as to cost, location, and campus configuration. Ball v. District No. 4, Area Board, 117 Wis. 2d 529, 345 N.W.2d 389 (1984).

**38.16 District tax levy. (1)** Annually by October 31, or within 10 days after receipt of the equalized valuations from the department of revenue, whichever is later, the district board may levy a tax, not exceeding 1.5 mills on the full value of the taxable property of the district, for the purpose of making capital improvements, acquiring equipment and operating and maintaining the schools of the district, except that the mill limitation is not applicable to taxes levied for the purpose of paying principal and interest on valid bonds or notes now or hereafter outstanding as provided in s. 67.035. The district board secretary shall file with the clerk of each city, village and town, any part of which is located in the district, a certified statement showing the amount of the levy and the proportionate amount of the tax to be spread upon the tax rolls for collection in each city, village and town. Such proportion shall be ascertained on the basis of the ratio of full value of the taxable property of that part of the city, village or town located in the district to the full value of all taxable property in the district, as certified to the district board secretary by the department of revenue. Upon receipt of the certified statement from the district board secretary, the clerk of each city, village and town shall spread the amounts thereof upon the tax rolls for collection. When the taxes are collected, such amounts shall be paid by the treasurer of each city, village and town to the district board treasurer.

**(2)** The district board may borrow money and levy taxes to be used for the purchase or construction of buildings and for additions, enlargements and improvements to buildings and for the acquisition of sites and equipment. In financing activities under this subsection, the district may issue its bonds or promissory notes under ch. 67 to pay the cost thereof.

**History:** 1971 c. 154, 211; 1973 c. 61, 90; 1975 c. 39; 1977 c. 29 ss. 493, 1647 (13); 1977 c. 300 ss. 1, 8; 1977 c. 418 s. 918m; 1979 c. 34; 1981 c. 20.

Board power to levy taxes is constitutional. West Milwaukee v. Area Board of Vocational, Technical & Adult Education, 51 Wis. 2d 356, 187 N.W.2d 387 (1971).

**38.18 Contracts and bidding.** All contracts made by a district board for public construction in a district shall be let by the district board to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For purposes of this section, the district board shall possess the powers conferred by s. 62.15 on the board of public works and the common council. All contracts made under this section shall be made in the name of the district and shall be executed by the district board chairperson and district board secretary.

**History:** 1971 c. 154; 1975 c. 244; 1981 c. 269; 1993 a. 397; 1999 a. 9.

**38.20 Adjustment of assets and liabilities. (1)** Except as provided in sub. (2), upon the creation of a district the property, assets, claims, contracts, obligations, rights, duties and liabilities relating and pertaining to the existing technical colleges in the territory included in the district shall become the property, assets, claims, contracts, obligations, rights, duties and liabilities of the district.

**(2) (a)** Upon the creation of a district the property, assets, claims, contracts, obligations, rights, duties and liabilities relating and pertaining to the existing technical college operated in a city, village or town located in the territory included in the district shall remain the property, assets, claims, contracts, obligations, rights,

duties and liabilities of such city, village or town, unless the governing body of such city, village or town transfers the whole or any portion thereof to the district under an agreement between such city, village or town and the district as to the use, obligation and ownership thereof.

(b) The purchase price of such property, except as otherwise agreed upon under par. (a), shall be the fair market value as determined by an independent appraiser selected jointly by the governing body of the city or village and the district board, less any outstanding obligations against the property which shall be assumed by the district.

(c) In financing the purchase of property transferred to the district under this subsection, the district may issue its bonds or promissory notes under ch. 67 to pay the cost thereof including assumption of outstanding obligations.

(d) The city or village shall deposit the proceeds of the sale of technical college property in the debt service fund, if any, created for payment of existing technical college obligations. The indebtedness of such city or village shall, for purposes of computing its legal debt limit, be deemed reduced by the amount of such deposit. The city or village may invest these debt service fund moneys under s. 66.0603 (1m) or 67.11 (2) and (3). Bonds and notes issued by districts for purposes of this subsection shall not be subject to referendum. The purchase agreement shall include an irrevocable clause providing that the district shall pay annually to the city or village a sum of money equal to the amount in which the interest received by the city or village upon investments authorized hereunder is less than the amount of interest paid by the city or village on the bonds of the city or village for technical college purposes.

(e) The district purchasing property under this subsection may, with approval of the city council or village board involved, pay the purchase price by issuing and delivering directly to the city or village the general obligation promissory notes or the notes of the district under s. 67.12 (12), except that no referendum may be held and the 10-year limitation on such notes shall be inapplicable to such notes issued under this paragraph. Such notes shall mature and be payable at such times, in such amounts and at such rate of interest as will amortize and pay when due the principal and interest on the outstanding obligations of the city or village for technical college purposes. All such notes, upon execution and delivery to the city or village, shall in all respects be held and considered as an authorized investment under s. 66.0603 (1m) or 67.11 (2) and (3) of the debt service fund created for payment of the city or village obligations issued for technical college purposes and shall be offset against city or village indebtedness in computing legal debt limit to the same extent as other authorized investments of the debt service fund and such notes may be sold and hypothecated. If the offset against city or village indebtedness under this paragraph is determined to be invalid in any respect, such city or village immediately may require the district issuing the promissory notes to such city or village to comply with pars. (c) and (d) to the extent necessary to cure such invalidity.

**History:** 1971 c. 154; 1983 a. 207 s. 93 (8); 1993 a. 246, 399, 491; 1999 a. 150 s. 672; 2001 a. 30.

**38.22 Admission requirements. (1)** Except as provided in subs. (1m) and (1s) and s. 118.55 (7r), every person who is at least the age specified in s. 118.15 (1) (b) is eligible to attend a technical college if the person is:

(a) A resident of this state.

(d) A nonresident of this state, and if the district board of attendance approves the enrollment.

**(1m)** Notwithstanding sub. (1) (intro.), a person who is at least 15 years and 6 months of age, who satisfies the other requirements for admission under sub. (1) and who obtains a letter from his or her high school principal recommending that the person be permitted to attend the schools of a district in order to take a course in motorcycle safety is eligible to attend the schools of a district for the purpose of taking a course in motorcycle safety. A person

under the age of 16 years who takes a course in motorcycle safety under this subsection may not use in the course a motorcycle other than a motorcycle provided by the school of the district for the course.

**(1s)** Notwithstanding sub. (1) (intro.), an individual under the age of 16 is eligible to attend the schools of a district if all of the following apply:

(a) The district board agrees to admit the individual.

(b) The individual satisfies the other requirements for admission under sub. (1).

(c) The individual has the written permission of his or her parent or guardian.

(d) The individual will not be attending the district school during the hours of the normal school day established under s. 119.18 (7) or 120.12 (15).

**(3)** Nonresident students shall be subject to the same rules and regulations as resident students.

**(4)** The board shall establish procedures to determine the residence of students attending district schools. In the case of any disagreement as to the residence of any student, the board shall make the final determination.

**(5)** The board shall promulgate rules establishing the priority to be given by a district board in admitting students who are residents of the district, students who are not residents of the district but are residents of this state and students who are not residents of this state.

**(6)** The following persons are residents of this state for the purposes of this section and s. 38.24:

(a) Any person who has been employed as a migrant worker for at least 2 months each year for 3 of the 5 years next preceding the beginning of the semester or session for which the person wishes to enroll at a district school, or for at least 3 months each year for 2 of the 5 years next preceding the beginning of the semester or session for which the person wishes to enroll at a district school, any adult whose parent or legal guardian has been so employed while the adult was a minor, and any minor whose parent or legal guardian has been so employed. In this paragraph, “migrant worker” has the meaning specified in s. 103.90 (5).

(b) Any minor, or adult who is a dependent of his or her parents or guardian under 26 USC 152 (a), whose natural parents are divorced or legally separated, if one or both of the person’s parents have been bona fide residents of this state for at least 12 months next preceding the beginning of the semester or session for which the person wishes to enroll at a district school.

(c) Any person continuously employed full time in this state, who was relocated to this state by his or her current employer or who moved to this state for employment purposes and accepted his or her current employment before applying for admission to a district school and before moving, and the spouse and dependents of any such person, if the student demonstrates an intent to establish and maintain a permanent home in Wisconsin. In this paragraph, “dependents” has the meaning given in 26 USC 152 (a).

(d) Any person who is a refugee, as defined under 8 USC 1101 (a) (42), who moved to this state immediately upon arrival in the United States and who has resided in this state continuously since then, if he or she demonstrates an intent to establish and maintain a permanent home in Wisconsin.

(e) Any person who is a citizen of a country other than the United States if that person meets all of the following requirements:

1. The person graduated from a high school in this state or received a declaration of equivalency of high school graduation from this state.

2. The person was continuously present in this state for at least 3 years following the first day of attending a high school in this state or immediately preceding receipt of a declaration of equivalency of high school graduation.

3. The person enrolls in a district school and provides the district board with proof that the person has filed or will file an application for a permanent resident visa with U.S. Citizenship and Immigration Services as soon as the person is eligible to do so.

(f) Any person verified by the department of veterans affairs as being a resident of this state under s. 38.24 (8) (a).

**History:** 1971 c. 154; 1977 c. 29 ss. 494, 494m, 501m; 1977 c. 273; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 122; 1989 a. 24, 31, 336; 1991 a. 39, 184; 1997 a. 27; 2005 a. 25; 2009 a. 28.

**Cross-reference:** See also ch. TCS 10, Wis. adm. code.

**38.23 Student discrimination prohibited. (1)** No student may be denied admission to, participation in or the benefits of, or be discriminated against in any service, program, course or facility of the board or any district because of the student's race, color, creed, religion, sex, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status.

**(2)** (a) Each district board shall establish policies and procedures to protect students from discrimination under sub. (1). The policies and procedures shall do all of the following:

1. Provide criteria for determining whether sub. (1) has been violated.
2. Provide remedies and sanctions for violations of sub. (1).
3. Require a complainant to file a complaint with the district director within 300 days of the alleged violation of sub. (1).
4. Provide periods within which the complainant and the district director must act for each procedural step leading to the issuance of a final decision and for appeal of the final decision to the district board.

(b) The policies and procedures established under par. (a) are subject to review and approval by the board.

**(3)** By September 1, 1991, 1992, 1993, and 1994, the board shall submit a report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3). The report shall specify the number of complaints received by each district board in the previous school year alleging a violation of sub. (1) and the disposition of each such complaint.

**(4)** Nothing in this section or s. 36.12 prevents institutions from segregating students in dormitories based on sex.

**History:** 1989 a. 186.

The exclusion of contraceptives from an employer or college or university sponsored benefits program that otherwise provides prescription drug coverage violates Wisconsin law prohibiting sex discrimination in employment and in higher education, ss. 111.31 to 111.395, 36.12, and 38.23. OAG 1-04.

**38.24 Fees and tuition. (1) DEFINITION.** In this section, "operational cost" means costs funded by general purpose revenue, property taxes and uniform fees established under sub. (1m) (a) and (b).

**(1g) OPERATIONAL COSTS.** Annually, by January 1, the board shall estimate the statewide operational cost per full-time equivalent student in collegiate transfer programs and postsecondary and vocational-adult programs for the next fiscal year. The board shall furnish each district board with definitions of statewide operational costs per full-time equivalent student and shall establish procedures for determining operational cost per full-time equivalent student.

**(1m) PROGRAM FEES.** The district boards shall charge students the fees established by the state board under this subsection. Annually, the board shall establish:

(a) *Liberal arts collegiate transfer programs.* Uniform fees based on not less than 31% of the statewide average operational costs of liberal arts collegiate transfer programs in district schools.

(b) *Postsecondary and vocational-adult programs.* Uniform fees based on not less than 14% of the combined estimated statewide operational cost of postsecondary, exclusive of collegiate transfer, and vocational-adult programs. The board shall maintain statewide uniformity in the program fees charged for postsecondary and vocational-adult credits. Students 62 years old and

over shall be exempted from program fees under this paragraph in vocational-adult programs. Students enrolled in adult high school, including students enrolled under s. 118.15 (1) (cm) 3., adult basic education and English as a 2nd language courses shall be exempted from program fees under this paragraph. The board shall establish fees under this paragraph as if students exempt from fees under sub. (4) were not exempt.

(c) *Materials fees.* Establish uniform fees against all students, including tuition exempted students under par. (b), to cover the cost of consumable materials in addition to program fees. The board shall establish fees under this paragraph as if students exempt from fees under sub. (4) were not exempt.

(d) *Programs for inmates.* Uniform fees, for vocational programs or courses offered to state prison inmates at a district facility by the department of corrections or the department of health services in cooperation with a district board, equal to the fees established under par. (b).

**(1s) ADDITIONAL FEES.** A district board may establish and charge a fee in addition to the fees under sub. (1m) for any of the following:

(a) A court-approved alcohol or other drug abuse education program offered to individuals under s. 48.245 (2) (a) 4., 48.345 (13) (b), 48.347 (5) (b), 938.245 (2) (a) 4., 938.32 (1g) (b), 938.34 (6r) (b) or (14s) (b) 3., 938.343 (10) (c) or 938.344 (2g) (a).

(b) A professional development, vocational-adult seminar or workshop, consisting of no more than 24 hours of instruction, offered to individuals who are employed in a related field. Annually the district board shall report to the board the courses for which an additional fee was charged under this paragraph and the amount of the additional fee.

(c) A vocational-adult course intended to improve an individual's skills beyond the entry level if the course is required by state or federal law, rule or regulation, or by a professional organization, to maintain licensure or certification in the individual's field of employment and the state director approves. The additional fee may not exceed an amount equal to the full cost of the course less the fee under sub. (1m).

**(2) REFUNDS.** The board shall establish fee and tuition refund policies.

**(3) NONRESIDENT FEES AND LIABILITIES; REMISSIONS.** (a) For all students who are not residents of this state, nor subject to reciprocal agreements with the board, annually the board shall establish a fee based on 150 percent of program fees established under sub. (1m) (a) and (b).

(b) Notwithstanding par. (a), the state director may authorize the district board to charge a student who is not a resident of this state and who is subject to a contract with a federal agency under s. 38.14 (3) (a) a fee equal to the contracting district board's direct cost per full-time equivalent student for operating the program in which he or she is enrolled plus an amount equal to the district board's indirect costs per full-time equivalent student attributable to the contract.

(c) The state director may authorize a district board to remit the fees under par. (a), but not the fees under sub. (1m), to any of the following:

1. A number of needy and worthy students. The number of students receiving fee remissions under this subdivision in all districts may not exceed a number equal to 0.5% of the full-time equivalent statewide enrollment.

2. Students enrolling under agreements with foreign educational institutions that provide for the exchange of an equal number of students who are residents of this state.

(d) The board shall promulgate rules relating to the remission of fees under par. (c), including rules defining "needy and worthy".

(f) Notwithstanding par. (a), the state director may authorize the district board to charge a student who is not a resident of this state and who is enrolled in a course provided through the use of

distance education, as defined in s. 24.60 (1g), a fee that is less than the fee established under par. (a) but not less than the fees established under sub. (1m).

(4) FEE EXEMPTIONS. A graduate of an associate degree program or vocational diploma program who is a resident of this state is exempt from the fees under sub. (1m) (b) and (c) for up to 6 credits within the same occupational program for which the degree or diploma was awarded if the graduate applies for the exemption within 6 months of graduation and any of the following applies:

(a) Within 90 days after his or her initial employment, the graduate's employer certifies to the district board that the graduate lacks entry-level job skills and specifies in writing the specific areas in which the graduate's skills are deficient.

(b) The graduate certifies that all of the following apply:

1. The graduate has not secured employment in the occupational field in which he or she received the degree or diploma.

2. The graduate has actively pursued employment in that occupational field.

3. The graduate has not refused employment in that occupational field or in a related field.

4. The graduate has actively sought the assistance of the district placement office.

(4m) AUDITOR'S FEE EXEMPTION. The board shall permit a person who is 60 years of age or older to audit a course, other than a community service program, without paying an auditor's fee if the person is a resident of this state, as determined by the board by rule, space is available in the course and the instructor approves.

(5) FEE REMISSIONS FOR SURVIVORS. (a) In this subsection:

1g. "Correctional officer" has the meaning given in s. 102.475 (8) (a).

1j. "Emergency medical services technician" means an individual under s. 256.01 (5) or (9).

1m. "Fire fighter" means any person employed by this state or any political subdivision of this state as a member or officer of a fire department whose duties include fire fighting or fire fighting training or a member of a volunteer fire department whose duties include fire fighting or fire fighting training.

2. "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(b) The district board shall grant full remission of fees under sub. (1m) (a) to (c) to any resident student who is enrolled in a program leading to an associate of arts degree, a collegiate transfer program or a vocational diploma program and who is any of the following:

1. The child of an ambulance driver, correctional officer, fire fighter, emergency medical services technician or law enforcement officer who was killed in the line of duty in this state or who qualified for a duty disability benefit under s. 40.65 (4), under the Wisconsin Retirement System, the Employees' Retirement System of the city of Milwaukee, or the Milwaukee County Employee's Retirement System and died as a result of the qualifying disability. The student must be the child of an ambulance driver, correctional officer, fire fighter, emergency medical services technician or law enforcement officer who was so killed or who died as a result of the qualifying disability when the child was under the age of 21 or before the child was born.

2. The surviving spouse of an ambulance driver, correctional officer, fire fighter, emergency medical services technician or law enforcement officer who was killed in the line of duty in this state or who qualified for a duty disability benefit, as defined in s. 40.65 (4), under the Wisconsin Retirement System, the Employees' Retirement System of the city of Milwaukee, or the Milwaukee County Employee's Retirement System and died as a result of the qualifying disability.

(c) The fee remission under par. (b) shall remain in effect until completion of a sufficient number of credits to complete the program in which the student is enrolled, except that a student must be in good academic standing to receive the remission for the next

semester and may not receive a remission for more than 3 consecutive years.

(d) If the appropriation under s. 20.292 (1) (am) in any fiscal year is insufficient to fully fund the fee remissions under par. (b), the district board shall notify the joint committee on finance.

(6) FEE REMISSIONS FOR FUNERAL ASSISTANTS. The district board shall grant a \$25 remission of fees under subs. (1m) and (3) to a student for each valid voucher issued to the student under s. 45.60 (3).

(7) FEE REMISSION FOR SPOUSE, SURVIVING SPOUSE, AND CHILDREN OF CERTAIN VETERANS. (a) In this subsection, "eligible veteran" means a person verified by the department of veterans affairs to be either of the following:

1. A person who has served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the national guard, or in a reserve component of the U.S. armed forces; who was a resident of this state at the time of entry into that service; and who, while a resident of this state, died on active duty, died as the result of a service-connected disability, or died in the line of duty while on active or inactive duty for training purposes.

2. A person who was a resident of this state at the time of entry into service described in subd. 1. and who the U.S. department of veteran affairs has awarded at least a 30 percent service-connected disability rating under 38 USC 1114 or 1134.

(b) Except as provided in subs. 1. to 3. and par. (bg), the district board shall grant full remission of fees under sub. (1m) (a) to (c) for 128 credits or 8 semesters, whichever is longer, less the number of credits or semesters for which the person received remission of fees from any other district board under this subsection and from the Board of Regents under s. 36.27 (3n) (b) and less the amount of any fees paid under 38 USC 3319, to any resident student who is also any of the following:

1. A spouse of an eligible veteran. The remission under this subdivision applies only during the first 10 years after the eligible veteran received the service-connected disability rating.

2. Except as provided in subd. 2m., an unremarried surviving spouse of an eligible veteran. The remission under this subdivision applies only during the first 10 years after the veteran died.

2m. An unremarried surviving spouse of an eligible veteran who had a child with the eligible veteran. The remission under this subdivision applies only until 10 years after the youngest child that the spouse had with the eligible veteran reaches or would have reached 18 years of age, or during the first 10 years after the veteran died, whichever is longer.

3. A child of an eligible veteran, if the child is at least 17 but not yet 26 years of age.

(bg) Before the district board may grant a remission of fees under par. (b), the district board shall require the resident student to apply to the payment of those fees all educational assistance to which the resident student is entitled under 38 USC 3319. This requirement applies notwithstanding the fact that the resident student may be entitled to educational assistance under 10 USC 16132a, 10 USC 16163a, or 38 USC 3500 to 3566 as well as under 38 USC 3319, unless the resident student has 12 months or less of eligibility remaining for educational assistance under 10 USC 16132a, 10 USC 16163a, or 38 USC 3500 to 3566.

(bm) 1. For a resident student who is entitled to educational assistance under 10 USC 16132a, 10 USC 16163a, or 38 USC 3500 to 3566 and under 38 USC 3319, if the amount of educational assistance, other than educational assistance for tuition, to which the resident student is entitled under 10 USC 16132a, 10 USC 16163a, or 38 USC 3500 to 3566 is greater than the amount of educational assistance, other than educational assistance for tuition, that the resident student received under 38 USC 3319, as determined by the higher educational aids board, in the academic year the higher educational aids board shall reimburse the resident student for the difference in those amounts of educational assistance, as calculated by the higher educational aids board, from the

appropriation account under s. 20.235 (1) (fz). The higher educational aids board shall make that determination and calculation in consultation with the board and district board.

2. If in any fiscal year there are insufficient moneys available in the appropriation account under s. 20.235 (1) (fz) to provide full reimbursement under subd. 1. to all resident students who are eligible for that reimbursement, the higher educational aids board and the district board shall reimburse those resident students as provided in s. 39.50 (4).

(c) The higher educational aids board shall reimburse the district board for all fees under sub. (1m) (a) to (c) remitted under par. (b) as provided in s. 39.50 (2) and (3m).

**(8) FEE REMISSION FOR VETERANS.** (a) In this subsection, “veteran” means a person who is verified by the department of veterans affairs as being a resident of this state for purposes of receiving benefits under ch. 45, as being a resident at the time of his or her entry into the U.S. armed forces or forces incorporated in the U.S. armed forces, and as meeting any of the following conditions:

1. The person has served on active duty for at least one qualifying term of service under subds. 2. to 4. under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces during a war period or in a crisis zone.

2. The person has served on active duty in the U.S. armed forces or in forces incorporated in the U.S. armed forces under honorable conditions, for 2 continuous years or more or for the full period of his or her initial service obligation, whichever is less.

3. The person has served on active duty for 90 days or more under honorable conditions in the U.S. armed forces or in forces incorporated in the U.S. armed forces during a war period or for any period of service under section 1 of executive order 10957 dated August 10, 1961.

4. The term of service in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces under honorable conditions entitled the person to receive the Armed Forces Expeditionary Medal, established by executive order 10977 on December 4, 1961, the Vietnam Service Medal established by executive order 11231 on July 8, 1965, the Navy Expeditionary Medal, the Marine Corps Expeditionary Medal, or an equivalent expeditionary or service medal.

5. The person was honorably discharged from the U.S. armed forces or from forces incorporated in the U.S. armed forces for a service-connected disability, for a disability subsequently adjudicated to have been service connected, or for reasons of hardship.

6. The person was released under honorable conditions from the U.S. armed forces or from forces incorporated in the U.S. armed forces due to a reduction in the U.S. armed forces.

(b) Except as provided in par. (bg), the district board shall grant full remission of the fees charged under sub. (1m) (a) to (c) for 128 credits or 8 semesters, whichever is longer, less the number of credits or semesters for which the person received remission of fees from any other district board under this subsection and from the Board of Regents under s. 36.27 (3p) and less the amount of any fees paid under 10 USC 2107 (c), 38 USC 3104 (a) (7) (A), or 38 USC 3313, to any student who is a veteran.

(bg) Before the district board may grant a remission of fees under par. (b), the district board shall require the student to apply to the payment of those fees all educational assistance to which the student is entitled under 38 USC 3313. This requirement applies notwithstanding the fact that the student may be entitled to educational assistance under 10 USC 16131 to 16137, 10 USC 16161 to 16166, or 38 USC 3001 to 3036 as well as under 38 USC 3313, unless the student has 12 months or less of eligibility remaining for educational assistance under 10 USC 16131 to 16137, 10 USC 16161 to 16166, or 38 USC 3001 to 3036.

(bm) 1. For a student who is entitled to educational assistance under 10 USC 16131 to 16137, 10 USC 16161 to 16166, or 38 USC 3001 to 3036 and under 38 USC 3313, if the amount of educational assistance, other than educational assistance for tuition, to which the student is entitled under 10 USC 16131 to 161310

USC 16161 to 16166, or 38 USC 3001 to 3036 is greater than the amount of educational assistance, other than educational assistance for tuition, that the student received under 38 USC 3313, as determined by the higher educational aids board, in the academic year the higher educational aids board shall reimburse the student for the difference in those amounts of educational assistance, as calculated by the higher educational aids board, from the appropriation account under s. 20.235 (1) (fz). The higher educational aids board shall make that determination and calculation in consultation with the board and district board.

2. If in any fiscal year there are insufficient moneys available in the appropriation account under s. 20.235 (1) (fz) to provide full reimbursement under subd. 1. to all students who are eligible for that reimbursement, the higher educational aids board and the district board shall reimburse those students as provided in s. 39.50 (4).

(c) The higher educational aids board shall reimburse the district board for all fees under sub. (1m) (a) to (c) remitted under par. (b) as provided in s. 39.50 (2) and (3m).

**History:** 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 31, 107, 336; 1991 a. 39 ss. 1103 to 1108m, 1117; 1993 a. 16, 223, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 228; 1997 a. 27, 163, 292; 1999 a. 32 s. 97; 1999 a. 130, 154; 2003 a. 42; 2005 a. 22, 25, 253, 320, 468; 2007 a. 20 ss. 738mr to 741, 9121 (6) (a); 2007 a. 130; 2009 a. 28, 276.

**Cross-reference:** See also ch. TCS 10, Wis. adm. code.

VTAE schools (technical colleges) are not “district schools” within the meaning of Art. X, s. 3. 64 Atty. Gen. 24.

Apprentices indentured under ch. 106 may be charged tuition at VTAE schools (technical colleges) for related instruction received at such schools that is required as a condition of their apprenticeship. 65 Atty. Gen. 37.

**38.26 Minority student participation and retention grants.** (1) In this section, “minority student” means a student enrolled in a district school who is a minority group member, as defined in s. 560.036 (1) (f).

(2) The board shall annually notify each district board of those purposes for which grants may be awarded under this section. Grants may be awarded only for the purposes of assisting in:

(a) The creation or expansion of programs that provide counseling and tutoring services for minority students.

(b) Programs that demonstrate innovative approaches to increasing minority student placement and retention in technical education programs that have a high earning potential for their graduates.

(c) Providing internships to minority students enrolled in programs that prepare their graduates for admission to a teacher education program at an institution within the University of Wisconsin System.

(d) Programs that combine basic skills and occupational training as a means of expediting basic skills remediation and increasing retention of minority students.

(e) Programs that use community-based organizations to assist in the recruitment, training and retention of minority students.

(3) (a) Any district board may apply to the board for a grant to accomplish the purposes identified by the board under sub. (2).

(b) The board shall review the applications submitted under par. (a) according to procedures and criteria established by the board. The board shall notify the district board whether the district board’s application has been approved and, if approved, of the amount and the conditions of the grant to be awarded.

(c) Amounts awarded under par. (b) shall be paid from the appropriation under s. 20.292 (1) (c) and may be paid to the district board in installments. Amounts awarded shall range from 25% to 75% of the total project cost. The board shall require the district board to provide the remaining percentage share of total project cost.

(4) (a) Each district board receiving a grant under this section shall, by September 1 of the school year following receipt of the grant, file a report with the board. The report shall evaluate the district board’s performance in attaining the goals specified in the application submitted under sub. (3).

(b) The board shall develop and implement an audit program to assess the effectiveness of the grants made under this section in accomplishing the intended goals.

**History:** 1991 a. 39.

**38.27 Incentive grants. (1)** The board shall annually notify each district board of those purposes for which grants may be awarded under this section. Grants may be awarded only for the purposes of assisting in:

(a) The creation or expansion of adult high school, adult basic education and English as a 2nd language courses. The board shall give priority to courses serving minority, unemployed, disadvantaged or handicapped students.

(b) The creation or expansion of programs, courses or services, and related staff and instructional material development:

1. Which address the need to train emerging skills, skills resulting from occupational or technological change or skills in occupations experiencing substantial growth.

2. For which there is significant projected long-term job growth; and

3. That comply with state program priorities and plans for coordinating the efficient and cost-effective delivery of services.

(c) The purchase or lease of high-cost instructional equipment necessary to develop or improve new or expanding occupational training programs:

1. Which address emerging skilled training needs;

2. For which there is significant projected long-term job growth; and

3. That comply with state program priorities and plans for coordinating the efficient and cost-effective delivery of services.

(d) Programs that foster the provision of classroom instruction for apprentices and the upgrading of journeymen.

(e) Educational programs, courses or services that would not otherwise be established or maintained because of limitations in district fiscal capacity.

(g) The creation or expansion of programs that assist business and industry in adopting and implementing new technology, including training in the use of new technology and instructional and continuing educational opportunities in the adoption and implementation of new technology.

(h) The creation or expansion of programs at secured juvenile correctional facilities.

**(2)** (a) Any district board or combination of district boards may apply to the board for a grant to accomplish the purposes identified by the board under sub. (1).

(b) The board shall review the applications submitted under par. (a) according to procedures and criteria established by the board. Prior to awarding a grant for the purpose of sub. (1) (e), the board shall consider the principle of comparable budgetary support for similar programs and ensure that the program being considered for a grant is efficient and cost-effective. The board shall notify the applicant whether its application has been approved and, if approved, of the amount and the conditions of the grant to be awarded.

(c) Amounts awarded under this section shall be paid from the appropriation under s. 20.292 (1) (dc) and may be paid in installments. Except as provided under par. (cm), amounts awarded for the purposes of sub. (1) (b) to (d) and (g) shall range from 25% to 75% of the total project cost. The board shall require the district board to provide the remaining percentage share of total project cost.

(cm) For grants awarded to combinations of district boards for projects that support regional or statewide activities, the board shall determine the percentage of total project cost that the grant may fund.

(d) Amounts awarded for the purpose of sub. (1) (a) or (e) may be awarded on a continuing basis, pending the availability of funds. Amounts awarded to support the establishment of new pro-

grams under sub. (1) (b) or (g) may be awarded for a period of up to 3 years, pending the availability of funds.

(e) Funds received under this section for the purpose of sub. (1) (a), (b), (c), (d) or (g) may not be used to supplant funds otherwise available for such purposes.

(f) The recipient of a grant under sub. (1) (g) shall give preference, in assisting business and industry, to small and medium-sized businesses.

**(2m)** The board shall ensure that:

(a) Beginning in the 1989–90 fiscal year, not more than \$1,500,000 annually is awarded for the purpose of sub. (1) (e).

(b) Not more than 25% of the total amount awarded under this section in any fiscal year is for the purposes of sub. (1) (c).

(c) Beginning in the 1989–90 fiscal year, at least \$1,500,000 annually is awarded under sub. (1) (a) for adult literacy programs in addition to the amount awarded for such programs in the 1988–89 fiscal year.

(d) Beginning in the 1991–92 fiscal year, \$100,000 annually is awarded under sub. (1) (b) for nurse training programs.

(e) Beginning in the 1997–98 fiscal year, not more than \$150,000 annually is awarded for the purpose of sub. (1) (h).

(f) Beginning in the 2001–02 school year, at least \$0 annually is awarded under this section to districts with limited fiscal capacity, as defined by the board.

**(3)** (a) Each recipient of a grant under this section shall, by September 1 of the fiscal year following receipt of the grant, file a report with the board. The report shall evaluate the recipient's performance in attaining the goals specified in the application submitted under sub. (2).

(b) The board shall develop and implement an audit program to assess the effectiveness of the grants made under this section in accomplishing the intended goals.

**History:** 1985 a. 29; 1987 a. 399, 419; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 27; 2001 a. 16.

**38.272 Farm training program tuition grants. (1)** A student enrolled in a district's farm business and production management program may apply to the board for a grant for the purpose of paying 50% of the tuition for up to 6 years.

**(2)** The board shall review the applications submitted under sub. (1) according to procedures and criteria established by the board. The board shall notify the student whether his or her application has been approved and, if approved, of the amount of the grant.

**(3)** The board shall award grants under this section from the appropriation under s. 20.292 (1) (dd).

**History:** 1991 a. 39; 1995 a. 27.

**38.28 State aid. (1)** (a) Annually at the time and on forms prescribed by the director, the district board secretary shall report to the board the cost of maintaining the schools of the district; the character of the work done; the number, names and qualifications of the teachers employed; the number of full-time students enrolled; the number of full-time equivalent students enrolled in the district who are residents of another district; the number of full-time students exempted from tuition, by course credits; the actual amount of tuition collected in postsecondary and in vocational-adult programs; and such other information as the board requires.

(b) By October 15, 1992, each district board shall report to the board all of the following information for each of the 2 preceding school years:

1. The number and titles of all postsecondary programs and course sections added or discontinued.

2. The number of nonresident students and the district, state and country of residence of each.

3. For students who are residents of this state but not residents of the district:

a. The name and home address of each, to the extent permitted under [20 USC 1232g](#).

b. Whether the student's district of residence offered the post-secondary program or course in which the student is enrolled.

4. The number, title and program area of each instructional staff position added or eliminated and the reason for the addition or elimination.

(c) By January 1, 1993, the board shall report the information received from the district boards under par. (b) to the governor and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. [13.172 \(3\)](#).

**(1m)** In this section:

(a) 1. "District aidable cost" means the annual cost of operating a technical college district, including debt service charges for district bonds and promissory notes for building programs or capital equipment, but excluding all expenditures relating to auxiliary enterprises and community service programs, all expenditures funded by or reimbursed with federal revenues, all receipts under sub. (6) and ss. [38.12 \(9\)](#), [38.14 \(3\)](#) and (9), [118.15 \(2\) \(a\)](#), and [118.55 \(7r\)](#), all receipts from grants awarded under ss. [38.04 \(8\)](#), (20), (28), and (31), [38.14 \(11\)](#), [38.26](#), [38.27](#), [38.33](#), and [38.38](#), all fees collected under s. [38.24](#), and driver education and chauffeur training aids.

2. "District aidable cost" for any district that does not have an institution or college campus located in the district does not include costs associated with the collegiate transfer program at the district school. In this subdivision, "institution" and "college campus" have the meanings specified under s. [36.05](#).

(b) "Equalization index" means a ratio determined by:

1. Dividing the most current statewide full valuation by the board's estimate of the districts' total aidable full-time equivalent student count for the next fiscal year;

2. Dividing the most current full valuation for each district by the board's estimate of that district's full-time equivalent student count for the next fiscal year; and

3. Dividing the quotient of subd. 1. by the quotient of subd. 2., rounded to the 5th decimal place.

**(2)** (b) Each district's share of aids under this section shall be computed as follows:

1. The district's aidable cost shall be multiplied by the applicable percentage and this product shall be multiplied by the equalization index to determine state aids. In this subdivision, the "applicable percentage" is the percentage sufficient to generate total aid under this section that will fall within the range of 0.999 and 1.001 of the amount appropriated under s. [20.292 \(1\) \(d\)](#), as determined by the board.

2. The most current equalized values certified by the department of revenue shall be used in aid determinations. Equalized values shall include the full value of property that is exempt under s. [70.11 \(39\)](#) and (39m) as determined under s. [79.095 \(3\)](#).

3. Beginning with the 1975–76 fiscal year, state aids shall be calculated and paid on the basis of 1975–76 district aidable cost. Annually thereafter, aid payments in any fiscal year shall fund the district aidable cost in that same fiscal year.

4. The board shall make such adjustments in aid payments during the fiscal year as are necessary to reflect more current data under sub. (1m) and s. [20.292 \(1\) \(d\)](#). Final adjustments of state aid payments, on the basis of actual enrollments and costs, shall be made from the following year's aid appropriation under s. [20.292 \(1\) \(d\)](#).

5. The board shall reduce each district's aid payment under subd. 2. by the district's share of the amount necessary to produce and distribute the statewide guide under s. [38.04 \(18\)](#), as determined by the board.

(c) The board shall pay an amount determined by multiplying the number of students enrolled in a driver training course approved by the board by the number of credits of the course for

which each student is enrolled and multiplying the product by \$16. The board may provide aids under this paragraph on the basis of a minimum of 10 students regardless of the number of students actually enrolled and attending.

(d) Notwithstanding par. (b), the board may withhold, suspend or reduce in whole or in part payment of state aid under this subsection to any district board whose program or educational personnel does not meet minimum standards set by the board or which violates this chapter or any rule promulgated by the board under the authority of this chapter. The board shall discontinue aids to those programs which are no longer necessary to meet needs within the state.

(e) Aids shall not be paid to a district board for any program unless the intended content of each course has been thoroughly described, and the program has been designated and approved by the state director and reviewed by the board. The board shall establish procedures to implement this subsection which shall enhance the district's ability to respond rapidly to the needs of its citizens.

(f) The board shall compile information on anticipated cost for each succeeding fiscal year by the preceding January 1.

(g) The board shall pay an amount determined by multiplying the number of students enrolled in a chauffeur training course approved by the board by the number of credits of the course for which each student is enrolled and multiplying the product by \$150.

**(3)** If the appropriation for state aid under s. [20.292 \(1\) \(fc\)](#) in any one year is insufficient to pay the full amount under subs. (2) (c) and (g), funds in the appropriation shall be used first for the purposes of sub. (2) (c) and any remaining funds shall be prorated among the districts entitled to support under sub. (2) (g). If the appropriation for state aid under s. [20.292 \(1\) \(fc\)](#) in any one year is insufficient to pay the full amount under sub. (2) (c), funds in the appropriation shall be prorated among the districts entitled to the funds.

**(4)** From the appropriation under s. [20.292 \(1\) \(dm\)](#), the board shall annually pay to any district that does not have an institution or college campus located within the district an amount equal to that portion of the instructional costs of the district's collegiate transfer program not supported by fees and tuition that is equal to the state support of similar programs in the University of Wisconsin System, as determined by the board. In this subsection, "institution" and "college campus" have the meanings specified under s. [36.05](#).

**(5)** State aid shall not be paid to a district for any year, unless every teacher, administrator, principal and supervisor employed by the district during that year is under a contract providing for leave of absence by reason of sickness of such person, without deduction from salary, for not less than 5 days per year and for accumulation of unused sick leave from year to year to a total of not less than 30 days. No allowance may be paid for such absences from teaching or other educational services rendered in evening school by any person employed at least 30 hours per week in day school. This subsection does not apply to a person employed by the district board for less than 30 hours per week.

**(6)** (a) Annually, the board shall determine all of the following for each district:

1. The number of students enrolled in associate degree programs and vocational diploma programs in the district who are residents of another district.

2. The number of residents of the district who are enrolled in associate degree programs and vocational diploma programs in another district.

(b) Annually, the board shall pay to each district for which the result under subd. 1. is a positive number an amount determined as follows:

1. For each district, subtract the number determined under par. (a) 2. from the number determined under par. (a) 1. for that district, adjusted to a full-time equivalent basis.

2. Add the positive numbers obtained under subd. 1. for all districts.

3. Multiply the amount in the appropriation under s. 20.292 (1) (fm) for that fiscal year by a fraction, the numerator of which is the result obtained under subd. 1. and the denominator of which is the result obtained under subd. 2.

(c) The board shall make aid payments under this section from the appropriation under s. 20.292 (1) (fm). The board shall make such adjustments in aid payments during the fiscal year as are necessary to reflect more current data under pars. (a) and (b). Final adjustments of aid payments, on the basis of actual enrollments, shall be made from the appropriation under s. 20.292 (1) (fm) in the following fiscal year.

**History:** 1971 c. 154, 211; 1973 c. 90; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34, 221; 1981 c. 20, 269; 1983 a. 27; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27, 399; 1989 a. 31, 102, 336; 1991 a. 39, 322; 1993 a. 16, 377, 399, 437; 1995 a. 27 ss. 1812, 9145 (1); 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25.

**Cross-reference:** See also ch. TCS 10, Wis. adm. code.

**38.29 Chauffeur training grants.** (1) The board shall annually notify each district board receiving state aid under s. 38.28 (2) (g) of the amounts available for grants under this section. Grants under this section may be awarded only for the development of advanced chauffeur training facilities, the acquisition of instructional equipment for such facilities, operational costs associated with the maintenance of such facilities and equipment and costs incurred in the coordination of the training programs.

(2) (a) Any district board receiving aid under s. 38.28 (2) (g) may apply to the board for a grant for the purposes described under sub. (1).

(b) The board shall review the application according to criteria and procedures established by the board. If an application submitted under par. (a) is approved, the board shall notify the district board of the amount and conditions of the grant to be awarded.

(c) Amounts awarded shall be paid from the appropriation under s. 20.292 (1) (fg).

(3) Each district board receiving a grant under this section shall, by September 1 of the fiscal year following receipt of the grant, file a report with the board. The report shall evaluate the district board's performance in attaining the goals specified in the application submitted under sub. (2) (a).

**History:** 1985 a. 29; 1997 a. 27.

**38.30 Special aid for veterans.** (1) (a) District boards may receive payments from the U.S. department of veterans affairs for tuition to cover the cost of training for resident and non-resident students who are enrolled in district schools and are veterans eligible for benefits under federal law.

(b) District boards may receive payments from the department of workforce development under s. 47.02 to cover the cost of training for resident and nonresident students who are enrolled in district schools and are veterans ineligible for benefits under par. (a).

(c) District boards shall not receive payments under this subsection which, together with other receipts for the same purpose exclusive of the funds provided under s. 38.16, would exceed the full cost of training provided such veterans.

(d) The amounts received for nonresidents under this subsection shall not be less than the amounts specified in s. 38.24 (3) but may exceed such amounts.

(2) Upon the authorization of a school board or district board, the board may enter into contracts with the U.S. department of veterans affairs for training in vocational agriculture to be provided by such school board or district board to veterans eligible for benefits under federal law. The board shall receive from the U.S. department of veterans affairs payments granted to cover the cost of administration by the board and, to be paid to the school board

or district board, payments granted to cover the cost of such training.

**History:** 1971 c. 154; 1973 c. 284 s. 32; 1977 c. 29; 1983 a. 435 s. 7; 1989 a. 56; 1995 a. 27 ss. 1813, 9130 (4); 1997 a. 3.

**38.32 Technical college instructor occupational competency program.** (1) The board shall establish a technical college instructor occupational competency program. The program shall be designed to provide technical college instructors in district schools with temporary work experiences in business and industry in order to improve their knowledge and skills in the subjects they teach.

(2) The board shall review proposals submitted by district boards that are consistent with sub. (1). From the appropriation under s. 20.292 (1) (e), the board shall award grants to district boards to partially pay the salaries of teachers participating in approved proposals. Any funds received by a district board under this subsection shall be equally matched by the district board.

(3) To the extent possible, grants awarded under sub. (2) shall be equally distributed on a statewide basis.

(4) The board shall promulgate rules to implement and administer the program under this section. The rules shall ensure that no worker in the participating business or industry will be displaced or laid off as a result of the program and that the program does not conflict with any collective bargaining agreement in effect on the effective date of the rules.

**History:** 1983 a. 370; 1989 a. 56; 1991 a. 39; 1993 a. 399.

**Cross-reference:** See also ch. TCS 11, Wis. adm. code.

**38.33 Faculty development grants.** (1) From the appropriation under s. 20.292 (1) (eg), the board shall award grants to district boards to establish faculty development programs. The programs shall promote all of the following:

(a) Instructor awareness of and expertise in a wide variety of newly emerging technologies.

(b) The integration of learning technologies in curriculum and instruction.

(c) The use of instructional methods that involve emerging technologies.

(1m) The board may not award a grant to a district board under this section unless there is a matching fund contribution from the district board equal to at least 50% of the grant amount.

(2) The board shall promulgate rules to implement and administer this section, including rules establishing criteria for the awarding of grants.

**History:** 1997 a. 27.

**Cross-reference:** See also ch. TCS 13, Wis. adm. code.

**38.36 Nutritional improvement for elderly.** (1) In this section, "authorized elderly person" means any resident of this state who is 60 years of age or older, and the spouse of any such person.

(2) Any district approved by the board may establish a system to provide the opportunity for authorized elderly persons to participate in its meal program. If a district board desires to establish such a service, it shall develop a plan for the provision of food services for elderly persons and submit the plan to the board. Annually, the board shall notify the department of public instruction of the approved districts.

(3) Each plan shall provide at least one meal per day for each day that school is in regular session. The district board may provide additional service at other times in its discretion, if the number of eligible persons in the district or adjacent districts is of sufficient size, in the opinion of the board, so that unwarranted production expense is not incurred.

(4) Any district board that operates a food services plan for elderly persons under this section shall make facilities available for service to elderly persons at every technical college in the district that provides hot food service to its students. Upon application, the board may grant exceptions from compliance with this

subsection for reasons of safety, convenience or insufficient interest in a given neighborhood.

(5) Meals may be served at schools where they are served to students or at any site more convenient to the majority of authorized elderly persons interested in the service. Food may be transported to authorized elderly persons who are unable to leave their homes or distributed to nonprofit organizations for such purposes. However, no state funds under this section may be used for food delivery to individual homes. The board may require consolidation of programs between districts and between schools if such a procedure will be convenient and economical.

(6) The district board may file a claim with the department of public instruction for reimbursement for reasonable expenses incurred, excluding capital equipment costs, but not to exceed 15% of the cost of the meal or 50 cents per meal, whichever is less. Any cost in excess of the lesser amount may be charged to participants. If the department of public instruction approves the claim, it shall certify that payment is due and the secretary of administration shall pay the claim from the appropriation under s. 20.255 (2) (cn).

(7) All meals served must meet the approval of the board, which shall establish minimum nutritional standards and reasonable expenditure limits consistent with the standards and limits established by the state superintendent of public instruction under s. 115.345 (6). The board shall give special consideration to the dietary problems of elderly persons in formulating a nutritional plan. However, no district board may be required to provide special foods for individual persons with allergies or medical disorders.

(8) Participants in a program under this section may be required to document their Wisconsin residency in a manner approved by the board. The board may issue identification cards to such persons if necessary. A district board may admit nonresidents who would otherwise qualify into its program, but no state funds under this section may be used to subsidize any portion of the meals served to such persons.

(9) The board shall adopt reasonable rules necessary to implement this section.

**History:** 1989 a. 269, 359; 1993 a. 399; 1995 a. 27 ss. 1814, 9145 (1); 1997 a. 27; 2003 a. 33.

**38.38 Services for handicapped students.** Annually the board shall award a grant to each district board, from the appropriation under s. 20.292 (1) (de), to assist in funding transitional services for handicapped students. Each district board shall receive an amount equal to one–sixteenth of the amount appropriated and shall contribute matching funds equal to 25% of the amount awarded.

**History:** 1991 a. 39; 1997 a. 27.

**38.40 Technical preparation, school–to–work, and work–based learning programs.** (1) EMPLOYMENT AND EDUCATION PROGRAM ADMINISTRATION. The board shall plan, coordinate, administer, and implement the technical preparation, school–to–work, and work–based learning programs under sub. (1m) and such other employment and education programs as the governor may by executive order assign to the board. Notwithstanding any limitations placed on the use of state employment and education funds under this section or under an executive order assigning an employment and education program to the board, the board may issue a general or special order waiving any of those limitations on finding that the waiver will promote the coordination of employment and education services.

(1m) TECHNICAL PREPARATION, SCHOOL–TO–WORK AND WORK–BASED LEARNING PROGRAMS. The board shall provide all of the following programs:

(a) A technical preparation program that includes the technical preparation programs under s. 118.34.

(b) A school–to–work program that includes the school–to–work program for children at risk under sub. (4m).

(c) A work–based learning program under which the board awards grants to tribal colleges that are recognized as land grant colleges under 7 USC 301 to fund programs that provide occupational training and work–based learning experiences to youths and adults.

(2) INTERAGENCY ASSISTANCE. The council on workforce investment established under 29 USC 2821 and the department of public instruction shall assist the board in providing the technical preparation, school–to–work, and work–based learning programs under sub. (1m).

(2m) SKILL STANDARDS. The board shall approve statewide skill standards for the school–to–work program under sub. (1m) (b).

(4m) SCHOOL–TO–WORK FOR CHILDREN–AT–RISK. (a) The board may approve an innovative school–to–work program provided by a nonprofit organization for children at risk, as defined in s. 118.153 (1) (a), in a county having a population of 500,000 or more to assist those children at risk in acquiring employability skills and occupational–specific competencies before leaving high school. If the board approves a program under this paragraph, the board may award a grant, from the appropriation under s. 20.292 (1) (ef), to the nonprofit organization providing the program and the nonprofit organization shall use the funds received under the grant to provide the program.

(b) The board shall establish requirements for the operation of the grant program under this subsection. Notwithstanding sub. (5), those requirements are not required to be promulgated as rules.

(4r) PUBLICATIONS AND SEMINARS. The board may provide publications and seminars relating to the employment and education programs administered by the board and may establish a schedule of fees for those publications and seminars. Fees established under this subsection for publications and seminars provided by the board may not exceed the actual cost incurred in providing those publications and seminars. The fees collected under this subsection shall be credited to the appropriation account under s. 20.292 (1) (ga).

(5) RULES. The board shall promulgate rules to implement this section.

**History:** 2003 a. 33 ss. 946d to 946m, 1868p, 1868r, 1876t; 2005 a. 25 ss. 714d to 719d, 1835m.

**38.41 Training program.** (1) The board may award a grant to a district board for skills training or other education related to the needs of business.

(2) The board may award a grant to a district board to provide skills training or other education to a business if the business is located in this state and the applicant submits to the board an affidavit stating that the business has no more than 100 employees or had no more than \$10,000,000 in gross annual income in its most recent fiscal year.

(3) (a) The board shall award grants under this section from the appropriation under s. 20.292 (1) (eh).

(c) The board may award no more than \$500,000 in any fiscal year under sub. (2).

(d) Beginning in the 2008–09 school year, the board shall award at least \$1,000,000 annually under sub. (1) for training in advanced manufacturing skills, and beginning in the 2010–11 school year, the board shall award at least \$2,000,000 annually under sub. (1) for such training.

(4) The board shall promulgate rules to implement and administer this section.

**History:** 2005 a. 25; 2007 a. 20; 2009 a. 2, 28, 265.

**Cross–reference:** See also ch. TCS 17, Wis. adm. code.

**38.50 Educational approval board.** (1) DEFINITIONS. In this section, unless the context clearly requires otherwise:

(a) Notwithstanding s. 38.01 (2), “board” means the educational approval board.

(b) “Course” means an organized unit of subject matter in which instruction is offered within a given period of time or that covers a specified amount of related subject matter.

(c) “Course of instruction” means a series of classroom or correspondence courses having a unified purpose which lead to a diploma or degree or to an occupational or vocational objective.

(d) “Person” means any individual, partnership, association, corporation, or limited liability company, or any combination of these.

(e) “School” means any private trade, correspondence, business, or technical school, but does not include any of the following:

1. In–state schools that are exempt from taxation under section 501 of the Internal Revenue Code and that either were incorporated in this state prior to January 1, 1992, or had their administrative headquarters and principal places of business in this state prior to 1970.

2. Schools that are supported mainly by taxes.

3. Schools of a parochial or denominational character offering courses having a sectarian objective.

4. Schools primarily offering instruction avocational or recreational in nature and not leading to a vocational objective.

5. Courses conducted by employers exclusively for their employees.

6. Schools, courses of instruction, and training programs that are approved or licensed and supervised by other state agencies and boards.

7. Schools approved by the department of public instruction for the training of teachers.

8. Schools accredited by accrediting agencies recognized by the board.

(f) “Solicitor” means a person employed by or representing a school located either within or outside this state that, in places other than the actual business premises of the school, personally attempts to secure the enrollment of a student in the school.

(g) “Teaching location” means the area and facilities designated for use by a school required to be approved by the board under this section.

**(2) RESPONSIBILITIES.** The board shall protect the general public by inspecting and approving private trade, correspondence, business, and technical schools doing business within this state, whether located within or outside this state, changes of ownership or control of the schools, teaching locations used by the schools, and courses of instruction offered by the schools and regulate the soliciting of students for correspondence or classroom courses and courses of instruction offered by the schools.

**(3) RULE-MAKING POWER.** The board shall promulgate rules and establish standards necessary to administer this section.

**(5) EMPLOYEES, QUARTERS.** The board shall employ a person to perform the duties of an executive secretary and any other persons under the classified service that may be necessary to carry out the board’s responsibilities. The person performing the duties of the executive secretary shall be in charge of the administrative functions of the board. The board shall, to the maximum extent practicable, keep its office with the technical college system board.

**(7) APPROVAL OF SCHOOLS GENERALLY.** To protect students, prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction, and encourage schools to maintain courses and courses of instruction consistent in quality, content, and length with generally accepted educational standards, the board shall do all of the following:

- (a) Investigate the adequacy of courses and courses of instruction offered by schools to residents of this state and establish minimum standards for those courses of instruction.

- (b) Investigate the adequacy of schools’ facilities, equipment, instructional materials, and instructional programs and establish

minimum standards for those facilities, equipment, materials, and programs.

- (c) Establish rules, standards, and criteria to prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction.

- (d) Promulgate rules restricting the negotiability of promissory instruments received by schools in payment of tuition and other charges.

- (e) Establish minimum standards for refund of the unused portion of tuition, fees, and other charges if a student does not enter a course or course of instruction or withdraws or is discontinued from the course.

- (f) Require schools offering courses and courses of instruction to residents of this state to furnish information concerning their facilities, curricula, instructors, enrollment policies, tuition and other charges and fees, refund policies, and policies concerning negotiability of promissory instruments received in payment of tuition and other charges.

- (g) Approve courses of instruction, schools, changes of ownership or control of schools, and teaching locations meeting the requirements and standards established by the board and complying with rules promulgated by the board; publish a list of the schools and courses of instruction approved and a list of the schools that are authorized to use the term “college,” “university,” “state,” or “Wisconsin” in their names; and make those lists of the schools available on the board’s Internet site.

- (h) Issue permits to solicitors when all board requirements have been met.

- (i) Require schools to furnish a surety bond in an amount as provided by rule of the board.

**(8) SOLICITING OF STUDENTS.** (a) *In general.* No solicitor representing any school offering any course or course of instruction shall sell any course or course of instruction or solicit students for a course or course of instruction in this state for a consideration or remuneration, except upon the actual business premises of the school, unless the solicitor first secures a solicitor’s permit from the board. If the solicitor represents more than one school, a separate permit shall be obtained for each school the solicitor represents.

- (b) *Solicitor’s permit.* The application for a solicitor’s permit shall be made on a form furnished by the board and shall be accompanied by a fee and a surety bond acceptable to the board in the sum of \$2,000. The board shall, by rule, specify the amount of the fee for a solicitor’s permit. The bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as the result of any fraud or misrepresentation used in procuring his or her enrollment or as a result of the failure of the school to perform faithfully the agreement the solicitor made with the student, and may be supplied by the solicitor or by the school itself either as a blanket bond covering each of its solicitors in the amount of \$2,000 or the surety bond under sub. (7) (i). Upon approval of a permit, the board shall issue an identification card to the solicitor giving his or her name and address, the name and address of the employing school, and certifying that the person whose name appears on the card is authorized to solicit students for the school. A permit shall be valid for one year from the date issued. Liability under this paragraph of the surety on the bond for each solicitor covered by the bond shall not exceed the sum of \$2,000 as an aggregate for any and all students for all breaches of the conditions of the bond. The surety of a bond may cancel the bond upon giving 30 days’ notice in writing to the board and shall be relieved of liability under this paragraph upon giving the notice for any breach of condition occurring after the effective date of the cancellation. An application for renewal shall be accompanied by a fee, a surety bond acceptable to the board in the sum of \$2,000 if a continuous bond has not been furnished, and such information as the board requests of the applicant. The board shall, by rule, specify the amount of the fee for renewal of a solicitor’s permit.

(c) *Refusal or revocation of permit.* The board may refuse to issue or renew, or may revoke, any solicitor's permit upon one or any combination of the following grounds:

1. Willful violation of this subsection or any rule promulgated by the board under this section.
2. Furnishing false, misleading, or incomplete information to the board.
3. Presenting information to prospective students relating to the school, a course, or a course of instruction that is false, fraudulent, or misleading.
4. Refusal by the school to be represented to allow reasonable inspection or to supply information after written request therefor by the board.
5. Failure of the school which the solicitor represents to meet requirements and standards established by and to comply with rules promulgated by the board under sub. (7).
6. Cancellation of the solicitor's bond by surety.
7. Subject to ss. 111.321, 111.322, and 111.335, the applicant has an arrest or conviction record.

(d) *Notice of refusal to issue or renew permit.* Notice of refusal to issue or renew a permit or of the revocation of a permit shall be sent by registered mail to the last address of the applicant or permit holder shown in the records of the board. Revocation of a permit shall be effective 10 days after the notice of revocation has been mailed to the permit holder.

(e) *Request for appearance.* Within 20 days of the receipt of notice of the board's refusal to issue or renew a permit or of the revocation of a permit, the applicant or holder of the permit may request permission to appear before the board in person, with or without counsel, to present reasons why the permit should be issued, renewed, or reinstated. Upon receipt of a request, the board shall grant a hearing to the applicant or holder of the permit within 30 days giving that person at least 10 days' notice of the date, time, and place.

(f) *Recovery by students.* The bond in force under par. (b) shall not limit or impair any right of recovery otherwise available under law, nor shall the amount of the bond be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

(g) *Recovery on contracts.* No recovery shall be had by any school or its assignee on any contract for or in connection with a course or course of instruction if the representative who sold or solicited the course was not the holder of a solicitor's permit under this subsection at the time of the sale or solicitation.

(h) *Enforcement.* The attorney general or any district attorney may bring an action in circuit court for the enforcement of this subsection.

(i) *Penalty.* Whoever violates this subsection may be fined not more than \$500 or imprisoned not more than 3 months or both.

**(10) PROPRIETARY SCHOOL APPROVAL.** (a) *Authority.* All proprietary schools shall be examined and approved by the board before operating in this state. Approval shall be granted to schools meeting the criteria established by the board for a period not to exceed one year. No school may advertise in this state unless approved by the board. All approved schools shall submit quarterly reports, including information on enrollment, number of teachers and their qualifications, course offerings, number of graduates, number of graduates successfully employed, and such other information as the board considers necessary. If a school closure results in losses to students, parents, or sponsors, the board may authorize the full or partial payment of those losses from the appropriation under s. 20.292 (2) (gm).

(b) *Application.* Application for initial approval of a school or a course of instruction, approval of a teaching location, change of ownership, or control of a school, renewal of approval of a school or reinstatement of approval of a school or course of instruction that has been revoked shall be made on a form furnished by the board and shall be accompanied by a fee set by the board under

par. (c) and any other information as the board considers necessary to evaluate the school in carrying out the purpose of this section.

(c) *Fees; rule making.* The board shall promulgate rules to establish the fees paid to the board. In promulgating rules to establish the fees, the board shall do all of the following:

1. Require that the amount of fees collected under this paragraph be sufficient to cover all costs that the board incurs in examining and approving proprietary schools under this subsection.
2. Give consideration to establishing a variable fee structure based on the size of a proprietary school.
3. Specify a fee to accompany all applications under par. (b).
4. Specify a student protection fee.

(cm) *Limit on student protection fee.* The board shall discontinue collecting annual student protection fees under par. (c) 4. during the period that the balance in the fund created by those fees exceeds \$1,000,000.

(d) *Enforcement.* The attorney general or any district attorney may bring an action in circuit court for the enforcement of this subsection, including bringing an action to restrain by temporary or permanent injunction any violation of par. (a).

(e) *Penalties.* Any person who violates par. (a) may be required to forfeit not more than \$500. Each day of operation in violation of par. (a) constitutes a separate offense.

(f) *Other remedies.* In addition to any other remedies provided by law, a student who attends a school that is in violation of par. (a) may bring a civil action to recover fees paid to the school in violation of par. (a) together with costs and disbursements, including reasonable attorney fees.

**(11) CLOSED SCHOOLS; PRESERVATION OF RECORDS.** (a) In this subsection:

1. "Association" means the Wisconsin Association of Independent Colleges and Universities or a successor organization.

2. Notwithstanding sub. (1) (e), "school" has the meaning given in sub. (1) (e) (intro.) and also includes a school described in sub. (1) (e) 1., 6., 7., or 8.

3. "Student record" means, in the case of a school, as defined in sub. (1) (e) (intro.), a transcript for a student or former student of a school showing the name of the student, the title of the program in which the student was or is enrolled, the total number of credits or hours of instruction completed by the student, the dates of enrollment, the grade for each course, lesson, or unit of instruction completed by the student, the student's cumulative grade for the program, and an explanation of the school's credit and grading system. In the case of a school described in sub. (1) (e) 1., 6., 7., or 8., "student record" means a transcript for a student or former student of the school showing such information about the academic work completed by the student or former student as is customarily maintained by the school.

(b) 1. If a school operating in this state discontinues its operations, proposes to discontinue its operations, or is in imminent danger of discontinuing its operations as determined by the board, if the student records of the school are not taken into possession under subd. 2., and if the board determines that the student records of the school are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the persons who are the subjects of those student records or the authorized representatives of those persons, the board may take possession of those student records.

2. If a school operating in this state that is a member of the association discontinues its operations, proposes to discontinue its operations, or is in imminent danger of discontinuing its operations as determined by the association and if the association determines that the student records of the school are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the persons who are the subjects of those student records or the authorized representatives of those persons, the association shall take possession of those student records.

(c) If necessary to protect student records from being destroyed, secreted, mislaid, or otherwise made unavailable to the persons who are the subjects of those student records or the authorized representatives of those persons, the board or association may seek a court order authorizing the board or association to take possession of those student records.

(d) The board or association shall preserve a student record that comes into the possession of the board or association under par. (b) 1. or 2. and shall keep the student record confidential as provided under 20 USC 1232g and 34 CFR part 99. A student record in the possession of the board is not open to public inspection or copying under s. 19.35 (1). Upon request of the person who is the subject of a student record or an authorized representative of that person, the board or association shall provide a copy of the student record to the requester. The board or association may charge a fee for providing a copy of a student record. The fee shall be based on the administrative cost of taking possession of, preserving, and providing the copy of the student record. All fees collected by the board under this paragraph shall be credited to the appropriation account under s. 20.292 (2) (i).

**(12) USE OF CERTAIN TERMS PROHIBITED.** (a) No person that holds itself out to the public in any way as a legitimate institution of higher education may use the term “college” or “university” in the person’s name unless the person provides an educational program for which the person awards an associate or higher degree and the person has accreditation recognized by the U.S. secretary of education, has the foreign equivalent of that accreditation, as determined by the board, or has accreditation recognized by the Council for Higher Education Accreditation. This paragraph does not apply to any of the following:

1. A school that was doing business in this state with the approval of the board prior to May 27, 2010.

2. A person described in sub. (1) (e) 3. to 7. that was doing business in this state prior to May 27, 2010.

(b) No school, including a school described in sub. (1) (e) 1. to 8., may use the term “state” or “Wisconsin” in its name if the use of that term operates to mislead the public into believing that the school is affiliated with the University of Wisconsin System or the technical college system, unless the school actually is so affiliated. This paragraph does not apply to a school described in sub. (1) (e) 1. that has accreditation recognized by the U.S. secretary of education, has the foreign equivalent of that accreditation, as determined by the board, or has accreditation recognized by the Council for Higher Education Accreditation.

(c) The attorney general or any district attorney may bring an action in circuit court for the enforcement of this subsection, including bringing an action to restrain by temporary or permanent injunction any violation of par. (a) or (b).

(d) Any person who violates par. (a) or (b) may be required to forfeit not more than \$500. Each day of operation in violation of par. (a) or (b) constitutes a separate offense.

(e) In addition to any other remedies provided by law, a student who attends a school that is in violation of par. (a) or (b) may bring a civil action to recover fees paid to the school, together with costs and disbursements, including reasonable attorney fees.

**(13) FALSE ACADEMIC CREDENTIALS.** (a) In this subsection:

1. “Academic credential” means a degree, transcript, certificate, or other similar document that indicates the completion of a program, course, or course of instruction leading to, or the earning of academic credit toward, the granting of an associate, baccalaureate, or graduate degree.

2. “Authorized institution of higher education” means an educational institution that meets any of the following requirements:

a. Has accreditation recognized by the U.S. secretary of education; has the foreign equivalent of that accreditation, as determined by the board; or has accreditation recognized by the Council for Higher Education Accreditation.

b. Is approved by the board to operate in this state.

c. Operates in this state and is a school described in sub. (1) (e) 1. to 8.

d. Does not operate in this state, but is licensed or otherwise approved by the appropriate state agency of another state and is an active applicant for accreditation by an accrediting body recognized by the U.S. secretary of education or by the Council for Higher Education Accreditation.

e. Has been found by the board to meet standards of academic quality comparable to those of an educational institution located in the United States that has accreditation recognized by the U.S. secretary of education or by the Council for Higher Education Accreditation to offer credentials of the type and level claimed.

3. “False academic credential” means an academic credential issued or manufactured by a person that is not an authorized institution of higher education.

4. “Legitimate academic credential” means an academic credential issued by an authorized institution of higher education.

(b) Any person who knowingly issues or manufactures a false academic credential is guilty of a Class A misdemeanor.

(c) Any person who knowingly uses a false academic credential, or who falsely claims to have a legitimate academic credential, as follows may be required to forfeit not more than \$1,000:

1. In any communication to a client or to the general public, in connection with any business, trade, profession, or occupation.

2. For the purpose of obtaining a license or other approval required to practice a trade, profession, or occupation.

3. For the purpose of obtaining admission to an authorized institution of higher education.

4. For the purpose of obtaining an employment position with a state agency or with a political subdivision of the state, including an elective or appointive position, whether compensated or not; of obtaining a promotion, transfer, or reassignment from such a position; or of obtaining an increase in compensation or benefits for such a position.

(d) The board may charge a fee for evaluating an educational institution under par. (a) 2. e. in an amount that is sufficient to cover all costs that the board incurs in evaluating the institution. All fees collected by the board under this paragraph shall be credited to the appropriation account under s. 20.292 (2) (g).

**History:** 2005 a. 25 ss. 725g, 735c to 735x; Stats. 2005 s. 38.50; 2009 a. 300.

**Cross-reference:** See also EAB, Wis. adm. code.

A Wisconsin corporation offering programs that lead to certification for teachers and other school personnel was not subject to regulation as a trade or technical school. *Norda, Inc. v. Wisconsin Educational Approval Board*, 2006 WI App 125, 294 Wis. 2d 686, 718 N.W.2d 236, 05–2335.